

1 (Pages 1 to 4)

STEPHEN DODGE 1/15/2019

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<p>1 IT IS HEREBY STIPULATED AND AGREED, by and</p> <p>2 between counsel for the Plaintiffs and counsel for the</p> <p>3 Defendants that this deposition may be taken in</p> <p>4 shorthand by Susannah L. Massie, a Certified Court</p> <p>5 Reporter and Notary Public, and afterwards transcribed</p> <p>6 into typewriting; and the signature of the witness is</p> <p>7 expressly waived.</p> <p>8 * * * * *</p> <p>9 STEPHEN DODGE,</p> <p>10 of lawful age, produced, sworn and examined on behalf</p> <p>11 of the Plaintiffs, deposes and says:</p> <p>12 EXAMINATION</p> <p>13 BY MS. STEFFAN:</p> <p>14 Q. Good afternoon, Chief Dodge. Could you</p> <p>15 please state and spell your name for the record?</p> <p>16 A. Stephen Dodge. S-T-E-P-H-E-N, D-O-D-G-E.</p> <p>17 Q. My name is Jessie Steffan. I am one of the</p> <p>18 Plaintiff's attorneys in this case, which is called</p> <p>19 Molina versus City of St. Louis.</p> <p>20 Have you ever been deposed before?</p> <p>21 A. Yes, I have.</p> <p>22 Q. When was the last time you were deposed?</p> <p>23 A. I want to say it was probably a year ago.</p> <p>24 Q. So you're probably familiar with the ground</p> <p>25 rules, but just as a brief refresher, please try to</p>	<p>1 A. I am 49 years old.</p> <p>2 Q. Did you graduate from high school?</p> <p>3 A. Yes.</p> <p>4 Q. When did you graduate?</p> <p>5 A. '87.</p> <p>6 Q. Did you go to high school in the St. Louis</p> <p>7 area?</p> <p>8 A. Yes.</p> <p>9 Q. Where did you go to high school?</p> <p>10 A. DeSmet Jesuit High School.</p> <p>11 Q. Did you attend a police academy?</p> <p>12 A. Yes, I did.</p> <p>13 Q. What police academy did you attend?</p> <p>14 A. St. Louis Police Academy.</p> <p>15 Q. Did you graduate?</p> <p>16 A. Yes.</p> <p>17 Q. When did you graduate?</p> <p>18 A. Graduated in May of '94.</p> <p>19 Q. Did you attend college?</p> <p>20 A. Yes.</p> <p>21 Q. Where did you attend?</p> <p>22 A. Kansas University.</p> <p>23 Q. Did you graduate?</p> <p>24 A. Yes.</p> <p>25 Q. When did you graduate?</p>
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<p>1 answer verbally when you're responding to a question</p> <p>2 rather than nodding or shaking your head. And I'm</p> <p>3 going to try not to speak over you while you're giving</p> <p>4 an answer. If you would, please try to not speak over</p> <p>5 me when I'm asking a question.</p> <p>6 And if you do not understand a question,</p> <p>7 please let me know and ask me to clarify. Otherwise I</p> <p>8 will presume that you understood the question if you</p> <p>9 go ahead and answer. Do you understand that?</p> <p>10 A. Yes.</p> <p>11 Q. Have you taken any medication or drugs or</p> <p>12 alcohol today that would affect your ability to</p> <p>13 testify truthfully or to remember things?</p> <p>14 A. No.</p> <p>15 Q. And do you have any health conditions that</p> <p>16 affect your ability to testify truthfully or to</p> <p>17 remember things?</p> <p>18 A. No.</p> <p>19 Q. Did you do anything to prepare for today's</p> <p>20 deposition other than possibly communicate with your</p> <p>21 lawyer?</p> <p>22 A. No.</p> <p>23 Q. Mr. Dodge, where do you live?</p> <p>24 A. Eureka, Missouri.</p> <p>25 Q. How old are you?</p>	<p>1 A. I graduated in May of '91.</p> <p>2 Q. What did you study there?</p> <p>3 A. Business administration.</p> <p>4 Q. And you ultimately got a bachelor's degree?</p> <p>5 A. Yes.</p> <p>6 Q. Have you attended any graduate school?</p> <p>7 A. Yes.</p> <p>8 Q. Where did you attend?</p> <p>9 A. St. Louis University School of Law.</p> <p>10 Q. When did you attend?</p> <p>11 A. Um, it would have been '98 through 2002.</p> <p>12 Q. Did you ultimately obtain a degree?</p> <p>13 A. Yes.</p> <p>14 Q. What degree did you obtain?</p> <p>15 A. Juris doctorate.</p> <p>16 Q. Have you attended any other graduate</p> <p>17 school?</p> <p>18 A. No.</p> <p>19 Q. No other college?</p> <p>20 A. No. That was enough.</p> <p>21 Q. And is the St. Louis Police Academy the</p> <p>22 only police academy you've attended?</p> <p>23 A. Yes.</p> <p>24 Q. Did I cover most of your educational</p> <p>25 background?</p>

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<p style="text-align: right;">Page 9</p> <p>1 A. Yes.</p> <p>2 Q. Have you served in a branch of the</p> <p>3 military?</p> <p>4 A. No, I have not.</p> <p>5 Q. Have you ever served as a correctional</p> <p>6 officer?</p> <p>7 A. No.</p> <p>8 Q. Do you have a driver's license?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have any specialized driving</p> <p>11 training?</p> <p>12 A. Um, yes, I do.</p> <p>13 Q. What kind?</p> <p>14 A. I took a five-day EVOC course from the</p> <p>15 Missouri Highway Patrol.</p> <p>16 Q. EVOC is spelled how?</p> <p>17 A. It's EVOC. It's an acronym. I think it's</p> <p>18 for Emergency Vehicle Operations, something else.</p> <p>19 Q. Just generally what does that entail?</p> <p>20 A. It just entails like pursuit driving and</p> <p>21 that kind of thing.</p> <p>22 Q. Did you do that in your capacity as a</p> <p>23 police officer?</p> <p>24 A. Yes.</p> <p>25 Q. Other than EVOC, do you have any other</p>	<p style="text-align: right;">Page 11</p> <p>1 that be Julia Simmons?</p> <p>2 A. Yes.</p> <p>3 Q. The first one, would it have been a Mr.</p> <p>4 Golliday perhaps?</p> <p>5 A. Yes.</p> <p>6 Q. No other lawsuits other than those?</p> <p>7 A. Those are the ones I can remember. I mean,</p> <p>8 I know there's been a couple others that I've</p> <p>9 testified in, but I don't think I was necessarily</p> <p>10 named.</p> <p>11 Oh, no, I'm sorry. There was one more. I</p> <p>12 take that back. There was one involving Ferguson.</p> <p>13 Q. When you say Ferguson what do you mean?</p> <p>14 A. I mean from the initial Ferguson response</p> <p>15 in August of 2014, during that two-week period. There</p> <p>16 were a couple of reporters that had filed a lawsuit</p> <p>17 that I believe was settled.</p> <p>18 Q. You were a Defendant in that lawsuit?</p> <p>19 A. I believe so, yes. I was either a</p> <p>20 Defendant or a witness. I thought I was a Defendant.</p> <p>21 MR. WHEATON: I'm sorry to interrupt. I</p> <p>22 hadn't remembered this until now, but if it's the same</p> <p>23 one I'm thinking of, I believe it was dismissed. And</p> <p>24 I don't have any issue with giving you the case name,</p> <p>25 if I can find it.</p>
<p style="text-align: right;">Page 10</p> <p>1 specialized driving training?</p> <p>2 A. No.</p> <p>3 Q. Are there any restrictions on your ability</p> <p>4 to drive?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been convicted of a crime?</p> <p>7 A. No.</p> <p>8 Q. Have you ever been prosecuted for a crime?</p> <p>9 A. No.</p> <p>10 Q. Have you ever been arrested?</p> <p>11 A. No.</p> <p>12 Q. Have you ever been a party to a civil</p> <p>13 lawsuit?</p> <p>14 A. Yes.</p> <p>15 Q. What lawsuits?</p> <p>16 A. Um, well, this one. And then a long time</p> <p>17 ago in '90 -- I want to say '96, '97 there was a</p> <p>18 vehicle pursuit that I was involved in and there was</p> <p>19 an injury when the suspect vehicle crashed, and a</p> <p>20 subsequent lawsuit there. And there was another</p> <p>21 lawsuit when I was a patrolman in 2002 where a subject</p> <p>22 alleged excessive force. That went to federal court</p> <p>23 and they found in my favor. And those are the only</p> <p>24 ones that come to mind.</p> <p>25 Q. The second lawsuit you mentioned, would</p>	<p style="text-align: right;">Page 12</p> <p>1 BY MS. STEFFAN:</p> <p>2 Q. Just generally do you remember the subject</p> <p>3 of that lawsuit?</p> <p>4 A. Yes. The reporter had alleged that someone</p> <p>5 from an armored vehicle had shot them with some kind</p> <p>6 of projectile.</p> <p>7 Q. And do you recall whether you were alleged</p> <p>8 to have been in the armored vehicle or not?</p> <p>9 A. No, I was not alleged to have been in the</p> <p>10 armored vehicle because I was not in any armored</p> <p>11 vehicle at that time.</p> <p>12 Q. If you recall, what was the allegation with</p> <p>13 your connection with that lawsuit?</p> <p>14 A. I was the commander of the unit at that</p> <p>15 time.</p> <p>16 Q. What was the unit that you were commanding?</p> <p>17 A. Mobile Reserve/SWAT.</p> <p>18 Q. With the St. Louis Metropolitan Police</p> <p>19 Department?</p> <p>20 A. Yes.</p> <p>21 Q. But an action that was alleged to have</p> <p>22 occurred in St. Louis County?</p> <p>23 A. Correct.</p> <p>24 Q. Did you testify as part of that lawsuit?</p> <p>25 A. In a deposition.</p>

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<p>1 Q. You did not testify in court that you</p> <p>2 recall?</p> <p>3 A. No.</p> <p>4 Q. Do you recall the disposition of that</p> <p>5 lawsuit?</p> <p>6 A. To the best of my knowledge there was some</p> <p>7 kind of settlement and then it required officers to do</p> <p>8 some kind of training or something. And there might</p> <p>9 have been a monetary sum paid out, but I'm -- I think</p> <p>10 I just read that from a newspaper or something like</p> <p>11 that. No one actually informed me.</p> <p>12 Q. Do you recall the names of the Plaintiffs</p> <p>13 in the lawsuit?</p> <p>14 A. No. I'd recognize them if I heard them,</p> <p>15 but I don't remember them off the top of my head.</p> <p>16 Q. I'm going to ask you a few questions about</p> <p>17 your employment history with the St. Louis</p> <p>18 Metropolitan Police Department. I understand you now</p> <p>19 no longer work for that police department; is that</p> <p>20 right?</p> <p>21 A. That's correct.</p> <p>22 Q. What is your current position?</p> <p>23 A. Chief of Police for the City of Sunset</p> <p>24 Hills, Missouri.</p> <p>25 Q. When did you take that position?</p>	<p>1 Q. Did you have any other law enforcement</p> <p>2 related positions during your employment with</p> <p>3 Metropolitan Police Department?</p> <p>4 A. No.</p> <p>5 Q. According to this document you were</p> <p>6 promoted to the rank of lieutenant in 2010; is that</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And first you were assigned to specific</p> <p>10 districts for a very short while and then transferred</p> <p>11 to Special Ops; is that right?</p> <p>12 A. Um, yeah, about two years. Two years in</p> <p>13 District Four.</p> <p>14 Q. Okay. Were you with the Second District as</p> <p>15 a lieutenant?</p> <p>16 A. No. I was at the Second District as a</p> <p>17 sergeant. So I got promoted out of the Second</p> <p>18 District. Yeah, I see it's in there twice. I'm not</p> <p>19 sure.</p> <p>20 Q. Okay. So when you were promoted to</p> <p>21 lieutenant you moved to the Fourth District for a</p> <p>22 couple of years?</p> <p>23 A. Yes.</p> <p>24 Q. And then you moved to Special Ops?</p> <p>25 A. That is correct.</p>
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<p>1 A. February of 2017.</p> <p>2 Q. Until February of 2017 you worked at SLMPD?</p> <p>3 Nothing in-between that and Sunset Hills; correct?</p> <p>4 A. Correct.</p> <p>5 Q. While I ask you questions about your</p> <p>6 employment history I'm going to hand you a document</p> <p>7 you can look at.</p> <p>8 MS. STEFFAN: I'm marking this document as</p> <p>9 Dodge Exhibit 1.</p> <p>10 MR. WHEATON: Thank you.</p> <p>11 (Plaintiff Exhibit No. Dodge 1, SLMPD Work</p> <p>12 History, was then marked for identification.)</p> <p>13 BY MS. STEFFAN:</p> <p>14 Q. Have you seen this document before?</p> <p>15 A. Yes.</p> <p>16 Q. What is it?</p> <p>17 A. It's just a list of my assignments.</p> <p>18 Q. Does it look accurate to you?</p> <p>19 A. Yes.</p> <p>20 Q. And it's true that you began work with the</p> <p>21 police department in 1994?</p> <p>22 A. Correct.</p> <p>23 Q. And you were there continuously until 2017;</p> <p>24 is that right?</p> <p>25 A. That's correct.</p>	<p>1 Q. Is there a differences between what is</p> <p>2 listed here as Special Operations Team-CP and SWAT?</p> <p>3 A. Yes, there is.</p> <p>4 Q. What's the difference?</p> <p>5 A. Special operations was more of a narcotics,</p> <p>6 gang type unit that was stationed out of Central</p> <p>7 Patrol Division and each area station had their own</p> <p>8 Special Operations Team.</p> <p>9 Q. So where this document says CP, that stands</p> <p>10 for Central Patrol?</p> <p>11 A. Yes.</p> <p>12 Q. And how does SWAT differ from that</p> <p>13 narcotics and gang related focus of Special Ops?</p> <p>14 A. Well, SWAT is -- it's a completely</p> <p>15 different unit in that it also has the tactical</p> <p>16 component too. I mean, we do do some street and that</p> <p>17 kind of thing, but it's also the tactical portion of</p> <p>18 it, whether it's executing search warrants, responding</p> <p>19 to barricade subjects, hostage situations, civil</p> <p>20 disturbances, that kind of thing.</p> <p>21 Q. For a layman, what is the tactical</p> <p>22 component or what do you mean when you say tactical?</p> <p>23 A. Tactical component means just the</p> <p>24 specialized, officers with specialized training using</p> <p>25 specialized equipment to deal with heightened threats</p>

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<p style="text-align: right;">Page 17</p> <p>1 that involve armed subjects who might be in a</p> <p>2 barricaded building wanted for a serious crime, who</p> <p>3 may have taken someone hostage. So the SWAT Team gets</p> <p>4 called in to assist on those kind of things that</p> <p>5 require an extra level of equipment and training.</p> <p>6 Q. Without going into great detail, what kind</p> <p>7 of extra specialized equipment is available to SWAT</p> <p>8 that would not be available to patrol officers?</p> <p>9 A. You know, special ballistic protection,</p> <p>10 helmets, higher protection vests, carbine rifles, an</p> <p>11 armored vehicle, different munitions.</p> <p>12 Q. You also mentioned that members of SWAT</p> <p>13 have specialized training; is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. What types of specialized training do SWAT</p> <p>16 members undergo?</p> <p>17 A. Well, they initially will undergo two weeks</p> <p>18 of SWAT training, SWAT 1 and SWAT 2 training, that all</p> <p>19 officers are required to go through before you get on</p> <p>20 to SWAT.</p> <p>21 Q. Is moving from Special Ops to SWAT a</p> <p>22 promotion?</p> <p>23 A. No.</p> <p>24 Q. It's a lateral move?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Have you ever been a member of a unit</p> <p>2 called the Civil Disobedience Team?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall when you were a member of</p> <p>5 that team?</p> <p>6 A. That was during my time in Mobile</p> <p>7 Reserve/SWAT. Members of the Mobile Reserve/SWAT Team</p> <p>8 are also part of the Civil Disobedience Team.</p> <p>9 Q. It is a secondary kind of assignment?</p> <p>10 A. Just one more hat that they wore, so to</p> <p>11 speak.</p> <p>12 Q. Members of CDT could come from any other</p> <p>13 unit; is that true?</p> <p>14 A. Yes. Yes. Yeah, they were from all around</p> <p>15 the department.</p> <p>16 Q. But every member of SWAT is also a CDT</p> <p>17 member?</p> <p>18 A. Correct. Yes.</p> <p>19 Q. What type of training does an officer get</p> <p>20 to become a part of CDT?</p> <p>21 A. Well, I've been through probably hundreds</p> <p>22 of hours of training for CDT in my career, but the</p> <p>23 main gist of it surrounds chemical munitions and line</p> <p>24 formations and movements within the line formations.</p> <p>25 Q. Anything else that is a major component of</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. For you was it a voluntary move? You</p> <p>2 wanted to move from Special Ops to SWAT?</p> <p>3 A. I was asked to do it and I said yes.</p> <p>4 Q. It looks like on this document your title</p> <p>5 changed in 2013 from lieutenant to police lieutenant.</p> <p>6 Those might be the same thing. I just wanted to make</p> <p>7 sure.</p> <p>8 A. Yeah, it is. That's the same thing.</p> <p>9 Q. In February of 2016 you transferred away</p> <p>10 from SWAT and into the Fourth District; is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. Where is the Fourth District, just roughly?</p> <p>13 A. Downtown area.</p> <p>14 Q. That too was a lateral move; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Was it something you wanted to do?</p> <p>17 A. Um, no.</p> <p>18 Q. It was involuntary?</p> <p>19 A. It's just I go where I'm told.</p> <p>20 Q. Where this document says service</p> <p>21 retirement, that means that you are leaving SLMPD; is</p> <p>22 that right?</p> <p>23 A. That was my last day, yes, on the SLMPD.</p> <p>24 Q. That's when you moved to Sunset Hills?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 20</p> <p>1 CDT training?</p> <p>2 A. No. That's about it. I mean, there's some</p> <p>3 legal -- I guess there's some legal components to it</p> <p>4 as well. But, yeah, most of all it's just line</p> <p>5 formations, moving crowds and the use of chemical</p> <p>6 munitions.</p> <p>7 Q. When you say line formations, that's</p> <p>8 officers forming a line?</p> <p>9 A. Correct. A skirmish line.</p> <p>10 Q. Were you a CDT commander?</p> <p>11 A. Yeah, I guess technically I guess I was. I</p> <p>12 was in charge of the CDT Team since I was commander of</p> <p>13 the SWAT Team, so, yes.</p> <p>14 Q. During the time you were a member of CDT</p> <p>15 how big was it, how many officers?</p> <p>16 A. It varied. I think CDT first got its real</p> <p>17 big push when the AG form was coming. And I want to</p> <p>18 say that would have been in 2001. They had had</p> <p>19 problems, I believe, in Seattle and so they wanted to</p> <p>20 increase the amount of officers to be prepared when</p> <p>21 the AG form came here to St. Louis. So I want to say</p> <p>22 at that point it was probably up over around 100,</p> <p>23 maybe more, including SWAT officers. And that's when</p> <p>24 they redid the team and got more training and</p> <p>25 equipment and that kind of thing.</p>

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1 **Q. You said the membership was variable in**
 2 **number. Did it remain around 100?**
 3 A. I can't remember. I don't have the
 4 paperwork.
 5 **Q. I think you said that CDT got a push when**
 6 **the AG form was coming. Did it exist before that?**
 7 A. Not really. I think before that it was
 8 strictly Mobile Reserve.
 9 **Q. Got it. Do you know where the name came**
 10 **from for CDT?**
 11 A. Civil Disobedience Team? No idea.
 12 **Q. You've mentioned that two major components**
 13 **of the CDT training were line formations and the use**
 14 **of chemical munitions; is that right?**
 15 A. That's correct.
 16 **Q. What did you learn about the use of**
 17 **chemical munitions?**
 18 A. I mean, that's a pretty broad, I mean,
 19 broad, broad, question. I mean, it's like, I guess to
 20 sum it up, the various types there are; you know, what
 21 their capabilities are; when it's appropriate to use
 22 them, when it's not appropriate to use them.
 23 **Q. When you took CDT training, was that as a**
 24 **patrol officer or as a higher ranking position?**
 25 A. It was as a patrol officer. And then at

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1 **Q. And it appears that was for one day?**
 2 A. Correct.
 3 **Q. Do you recall what you were suspended for?**
 4 A. Yes.
 5 **Q. What were you suspended for?**
 6 A. For a car accident. I was responding to a
 7 child struck. A vehicle had run a stop sign in front
 8 of me which caused me to swerve and run up into a yard
 9 that had some metal poles sticking out of it, so it
 10 was a violation of driving policy, since I did not
 11 come to a stop before I ran through the stop sign.
 12 **Q. That's the only suspension that you recall?**
 13 A. Yes. That's the only suspension I've had.
 14 **Q. Were you ever docked pay or benefits as a**
 15 **penalty?**
 16 A. No, other than that. I mean, I think they
 17 dock you a day's pay for that.
 18 **Q. Did you ever receive a reprimand?**
 19 A. No. Um, hold on. Check that. Because I
 20 think maybe on a car accident I might have received a
 21 reprimand.
 22 **Q. A different car accident?**
 23 A. Yes.
 24 **Q. You might have received a written**
 25 **reprimand?**

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1 one point the Mobile Reserve/SWAT was in charge of
 2 actually providing the training. We were the
 3 instructors to the officers. And we'd meet, I think
 4 it was quarterly that we'd do training.
 5 **Q. You personally were a trainer?**
 6 A. I did for a short while when I was a
 7 sergeant, yeah. When I was a sergeant, I did.
 8 **Q. So that would have been between 2005 and**
 9 **2009?**
 10 A. No. It would have been when I was a
 11 sergeant on the Mobile Reserve Unit, which would have
 12 been, I want to say, from 2007 to 2009, so a couple
 13 years.
 14 **Q. I'm going to ask you some questions about**
 15 **your disciplinary history at the Metropolitan Police**
 16 **Department. Were you ever demoted?**
 17 A. No.
 18 **Q. Were you ever assigned to administrative**
 19 **duties as a penalty for something you'd done?**
 20 A. No.
 21 **Q. Were you ever suspended?**
 22 A. I believe one time.
 23 **Q. When was that?**
 24 A. Um, if you look on here, it would have been
 25 11/19 of 1999.

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1 A. I can't remember if it was written or oral.
 2 I can't remember whether -- I think it was a
 3 written reprimand -- uh. Whatever you get for your
 4 first car accident, chargeable car accident.
 5 **Q. Were you ever told that you needed to**
 6 **undergo counseling on a policy or retraining on a**
 7 **policy of the department?**
 8 A. No.
 9 **Q. Do you know if anyone filed a civilian**
 10 **complaint against you while you were with the St.**
 11 **Louis Metropolitan Police Department?**
 12 A. Have any civilians filed a complaint on me?
 13 Yes.
 14 **Q. Do you know how many times?**
 15 A. I don't.
 16 **Q. Thinking back to the most recent civilian**
 17 **complaint you recall, when was that?**
 18 A. The last one I can remember would have
 19 been -- I can't remember if it was me or if I was with
 20 a group and I was a witness. Probably in 2000 and --
 21 I would have been a sergeant. 2005 maybe.
 22 **Q. Do you recall why?**
 23 A. It was some subjects we found with some
 24 narcotics in O'Fallon. And I can't remember the gist
 25 of the complaint, but they didn't like the way it was

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<p>1 handled by us.</p> <p>2 Q. I'm sorry. O'Fallon, Missouri?</p> <p>3 A. I'm sorry. O'Fallon Place Apartments.</p> <p>4 Q. You don't recall any civilian complaints</p> <p>5 that occurred that were filed between 2005 and the end</p> <p>6 of your tenure at SLMPD?</p> <p>7 A. No.</p> <p>8 Q. Thinking back to the 2005 civilian</p> <p>9 complaint, what was the outcome in that investigation?</p> <p>10 A. To the best of my knowledge it was not</p> <p>11 sustained.</p> <p>12 Q. Were you ever reviewed for using force a</p> <p>13 certain number of times in a certain period of time?</p> <p>14 A. No.</p> <p>15 Q. My understanding is the department, at</p> <p>16 least at some point, had a policy of reviewing an</p> <p>17 officer's uses of force if they were close enough</p> <p>18 together in a certain period of time?</p> <p>19 A. Yes.</p> <p>20 Q. Is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. When you left SLMPD was that still the</p> <p>23 policy to your understanding?</p> <p>24 A. Yes.</p> <p>25 Q. And was that the policy throughout your</p>	<p>1 that, but just to clarify, do you know whether any</p> <p>2 other officer filed an employee misconduct report on</p> <p>3 you while you were at SLMPD?</p> <p>4 A. No.</p> <p>5 Q. Have you ever filed an employee misconduct</p> <p>6 report on another officer?</p> <p>7 A. As a supervisor, yes.</p> <p>8 Q. How many times?</p> <p>9 A. Um, I think maybe once or twice.</p> <p>10 Q. And just approximately when was that?</p> <p>11 A. It's been a while. I think the one was as</p> <p>12 a lieutenant when I was in the Fourth District, so I</p> <p>13 would say that would have been around 2011 or so.</p> <p>14 Q. Did you ever file an employee misconduct</p> <p>15 report when you were a lieutenant with SWAT/Mobile</p> <p>16 Reserve?</p> <p>17 A. I can't remember.</p> <p>18 Q. And very generally thinking back to the</p> <p>19 employee misconduct report you described from</p> <p>20 approximately 2011, what was the subject of that</p> <p>21 report?</p> <p>22 A. One officer had come to me stating that</p> <p>23 another officer while searching -- she was a female</p> <p>24 officer and she had asked this male officer to help</p> <p>25 her conduct a search, that he was attempting to assist</p>
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<p>1 tenure there?</p> <p>2 A. I mean, as a sergeant and a lieutenant I</p> <p>3 remember it, yes.</p> <p>4 Q. Do you know if anyone ever filed an</p> <p>5 employee misconduct report on you?</p> <p>6 A. A fellow employee?</p> <p>7 Q. Either a fellow employee or a civilian?</p> <p>8 A. I mean -- okay. Is there something</p> <p>9 different from this than what the other complaint was</p> <p>10 or is this the same question?</p> <p>11 Q. My understanding is a person who wants to</p> <p>12 complain about an officer can do that either through</p> <p>13 an employee misconduct report or some other way. So I</p> <p>14 don't know. That's my question.</p> <p>15 A. I consider them to be the same.</p> <p>16 Q. Okay.</p> <p>17 A. So, I mean, it would be referred to my</p> <p>18 earlier question. Yes.</p> <p>19 Q. That was an employee misconduct report, to</p> <p>20 your understanding?</p> <p>21 A. Yeah. That's the same -- I understand that</p> <p>22 to be the same thing as you had asked me earlier. Any</p> <p>23 kind of complaint. We call them complaints. Has</p> <p>24 anyone ever filed a complaint on you kind of thing.</p> <p>25 Q. Got it. So you may have already answered</p>	<p>1 the prisoner in concealing narcotics that he had found</p> <p>2 on him.</p> <p>3 Q. Have you ever filed an EMR related to</p> <p>4 excessive force?</p> <p>5 A. I can't remember. I may have. Nothing</p> <p>6 strikes me though.</p> <p>7 I take that back. I don't know if I wrote</p> <p>8 it or I just reported it.</p> <p>9 Q. You recall one circumstance where you might</p> <p>10 have done that?</p> <p>11 A. Yes. I was a sergeant in the Sixth</p> <p>12 District where a prisoner complained that one of our</p> <p>13 officers had flicked a lit cigarette at him, so I</p> <p>14 contacted Internal Affairs immediately and reported</p> <p>15 the incident.</p> <p>16 Q. Other than that incident, do you recall any</p> <p>17 other times when you contacted Internal Affairs about</p> <p>18 a possible unreasonable use of force?</p> <p>19 A. No.</p> <p>20 Q. Are you familiar with an organization</p> <p>21 called the St. Louis Police Officers Association?</p> <p>22 A. Yes.</p> <p>23 Q. Were you a member when you were working at</p> <p>24 SLMPD?</p> <p>25 A. Yes, I was.</p>

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<p>1 Q. Did you have any leadership roles?</p> <p>2 A. No.</p> <p>3 Q. Are you familiar with an organization</p> <p>4 called the Ethical Society of Police?</p> <p>5 A. Yes.</p> <p>6 Q. Were you a member of it while you were at</p> <p>7 SLMPD?</p> <p>8 A. No.</p> <p>9 Q. Do you know whether you can be a member of</p> <p>10 both?</p> <p>11 A. Um, I believe so, yes.</p> <p>12 (Plaintiff Exhibit No. Dodge 2, Unit File,</p> <p>13 was then marked for identification.)</p> <p>14 Q. I'm going to hand you another document.</p> <p>15 I've marked this as Dodge Exhibit 2. Have you ever</p> <p>16 seen this document before?</p> <p>17 A. No.</p> <p>18 Q. Do you see on the first page where it says</p> <p>19 Unit File?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know what a unit file is?</p> <p>22 A. I guess it's my personnel file.</p> <p>23 Q. That is my understanding.</p> <p>24 A. Okay.</p> <p>25 Q. Or at least perhaps a portion of it.</p>	<p>1 A. Um, just stuff in like -- like that form</p> <p>2 right there, Exhibit 1.</p> <p>3 Q. Other than the Exhibit 1 -- (attorney did</p> <p>4 not finish question.)</p> <p>5 A. PeopleSoft, stuff from PeopleSoft.</p> <p>6 Q. What is PeopleSoft?</p> <p>7 A. I think that's where this was procured</p> <p>8 from. PeopleSoft was kind of our human resources</p> <p>9 document where you document your hours and it lists</p> <p>10 your assignments and that kind of thing.</p> <p>11 Q. Gotcha. Does PeopleSoft have the -- let me</p> <p>12 back up. PeopleSoft is a piece of software that's on</p> <p>13 the computer?</p> <p>14 A. Correct.</p> <p>15 Q. And that is where you would document the</p> <p>16 times you come to work and leave work?</p> <p>17 A. Correct.</p> <p>18 Q. Does PeopleSoft also have other records</p> <p>19 about your work in it or just your hours?</p> <p>20 A. It has work assignments and that kind of</p> <p>21 thing.</p> <p>22 Q. In more detail than what we see here in</p> <p>23 Exhibit 1 or is it a printout like we see?</p> <p>24 A. Well, there's a printout. There's a long</p> <p>25 printout that has all your training and stuff listed</p>
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<p>1 A. Okay.</p> <p>2 Q. Have you ever seen another officer's unit</p> <p>3 file?</p> <p>4 A. I guess at some point in time I probably</p> <p>5 have.</p> <p>6 Q. So if you want to take a second and page</p> <p>7 through it, I understand that you are saying you've</p> <p>8 never seen this unit file before; correct?</p> <p>9 A. I've never looked at my unit file or my</p> <p>10 personnel file before, no, I haven't.</p> <p>11 Q. Okay. As you are paging through it, do you</p> <p>12 see documents do you recognize and just did not know</p> <p>13 were part of your unit file or have you not seen</p> <p>14 documents like these before?</p> <p>15 A. I mean, I've certainly entered department</p> <p>16 memos. Now whether I've seen these specific ones,</p> <p>17 it's possible. It's just been a long time.</p> <p>18 MR. WHEATON: I just want to point out for</p> <p>19 the record you've asked him to thumb through it. It's</p> <p>20 approximately 180 pages, so.</p> <p>21 MS. STEFFAN: It is a long document.</p> <p>22 BY MS. STEFFAN:</p> <p>23 Q. Have you seen other things from SLMPD that</p> <p>24 you would consider to be part of your personnel</p> <p>25 record?</p>	<p>1 on it.</p> <p>2 (Plaintiff Exhibit No. Dodge 3, Course</p> <p>3 Entries, was then marked for identification.)</p> <p>4 Q. That is a good segue. Let me hand you a</p> <p>5 third document.</p> <p>6 What you've just mentioned might be</p> <p>7 viewable in PeopleSoft that has a list of your</p> <p>8 training.</p> <p>9 A. Exactly.</p> <p>10 Q. Is this what you were referring to?</p> <p>11 A. Yes. Yes. This is what I was referring</p> <p>12 to.</p> <p>13 Q. And just for the record, you are referring</p> <p>14 to what I've marked as Dodge Exhibit 3.</p> <p>15 Just to clarify, this is a list of your</p> <p>16 training; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. This one is a lot shorter than what I just</p> <p>19 handed you. Does it look accurate to you?</p> <p>20 A. It does. Although, I can tell you that not</p> <p>21 initially all the training I've had would be on here</p> <p>22 because I have taken some training before that has not</p> <p>23 been listed on here, for whatever clerical reason.</p> <p>24 Q. You have anticipated my question. Why are</p> <p>25 things listed on here sometimes but not always?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. Just because of human error.</p> <p>2 Q. Do you think there is a lot missing from</p> <p>3 this document or just a few things?</p> <p>4 MR. WHEATON: Objection. Calls for</p> <p>5 speculation.</p> <p>6 A. It's hard to tell. I couldn't say.</p> <p>7 BY MS. STEFFAN:</p> <p>8 Q. You don't recall how much training you went</p> <p>9 to that's not on this list?</p> <p>10 A. I've been through a lot, a lot of training,</p> <p>11 and I don't actually remember every piece of training</p> <p>12 compared to what's on here. I would say probably the</p> <p>13 majority, but, yeah, there could be good chunks that</p> <p>14 are not on here as well.</p> <p>15 Q. Okay. I'd like to direct your attention to</p> <p>16 a couple of specific courses that you took fairly</p> <p>17 recently in the last few years.</p> <p>18 If you look at the third line in September</p> <p>19 27th, 2016.</p> <p>20 MR. WHEATON: I'm sorry. What page?</p> <p>21 MS. STEFFAN: On the first page.</p> <p>22 BY MS. STEFFAN:</p> <p>23 Q. Do you see a course called ICS 100b?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know what that refers to?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. I'd like you to look at the training</p> <p>2 that you took on April 18th of 2015. This is still on</p> <p>3 the first page about ten lines down. Do you see where</p> <p>4 it lists a training called 2015 Leader Symposium?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall what that training covered?</p> <p>7 A. Yes. That was something Chief Dotson had</p> <p>8 put on out at Ameren. And that was, I want to say, a</p> <p>9 day or a half a day.</p> <p>10 Q. Generally what was it about?</p> <p>11 A. Just leadership stuff, how to be a good</p> <p>12 leader, that type of thing.</p> <p>13 Q. Looking at the training that you took on</p> <p>14 December 23, 2014, do you see where it says 2014</p> <p>15 Non-Biased Policing?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall that training?</p> <p>18 A. Yes. That's our -- I believe at the time</p> <p>19 it was an annual racial profiling training class.</p> <p>20 Q. Do you recall how long it was?</p> <p>21 A. I want to say four -- either four or eight</p> <p>22 hours. I can't remember which.</p> <p>23 Q. Looking a few lines down to the training</p> <p>24 from October 2nd, 2014, do you see a training called</p> <p>25 Lessons of Ferguson?</p>
<p style="text-align: right;">Page 34</p> <p>1 A. I believe it's incident command training.</p> <p>2 Q. What is covered in incident command</p> <p>3 training generally?</p> <p>4 A. Um, basically responses to critical</p> <p>5 incidents.</p> <p>6 Q. What is a critical incident?</p> <p>7 A. It could be anything from a natural</p> <p>8 disaster to a hostage situation to a fire to a hazmat.</p> <p>9 That's a big one. To a civil unrest, to a bunch of</p> <p>10 different things.</p> <p>11 Q. Tell me again what you said ICS stands for.</p> <p>12 Incident command?</p> <p>13 A. Yeah. I don't know what that -- I think</p> <p>14 it's -- I think this is what it is. Incident Command</p> <p>15 System maybe.</p> <p>16 Q. All right. Is it for people who are going</p> <p>17 to be an incident commander?</p> <p>18 A. I think it can be for anybody. I think</p> <p>19 everybody goes through it at some point in time. It's</p> <p>20 not just for commanders.</p> <p>21 Q. Okay. Are the trainings that are listed in</p> <p>22 this document typically more or less than one day or</p> <p>23 is it not clear?</p> <p>24 A. Most training is one day, but there are</p> <p>25 some trainings that are more than one day.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall that training?</p> <p>3 A. I don't.</p> <p>4 Q. Officers are required to undergo a certain</p> <p>5 amount of training per year at SLMPD; is that right?</p> <p>6 A. Yes, proposed. And I believe it's over a</p> <p>7 three-year cycle. It may have changed, but I thought</p> <p>8 it was over a three-year cycle. Actually, it did</p> <p>9 change. I think it is now a yearly cycle you're</p> <p>10 required. And that just changed two or three years</p> <p>11 ago.</p> <p>12 Q. Is it the same for Sunset Hills?</p> <p>13 A. Yeah, it's the same.</p> <p>14 Q. Because that's set by the post commission?</p> <p>15 A. Correct. At the time it was, I think, over</p> <p>16 a two or three-year cycle and then they recently</p> <p>17 changed it two years ago, two or three years ago.</p> <p>18 Q. Do you know what the requirements were when</p> <p>19 it was a three-year cycle?</p> <p>20 A. They had different disciplines and you were</p> <p>21 required to have so many total hours. You know, like</p> <p>22 interpersonal skills, firearms training. I can't</p> <p>23 remember what the third one was. But under each</p> <p>24 discipline you were required to have so many hours per</p> <p>25 discipline.</p>

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<p style="text-align: right;">Page 37</p> <p>1 Q. Do you know if there are the same or 2 different training requirements for patrol officers 3 versus higher ranking officers? 4 A. I believe they are the same for all police 5 officers. 6 Q. Did you comply with the training you were 7 required to get? 8 A. Yes. 9 And can I go back on the Lessons of 10 Ferguson? 11 Q. Sure. 12 A. I believe we had a meeting with all the 13 various police departments involved in Ferguson. And 14 I want to say it was headed by -- like Highway Patrol 15 was there, Chief Belmar was there and I remember it 16 was almost like a debriefing of sorts. And I think 17 that might be what that was. 18 So it came out -- it's listed as training. 19 I thought it was more of like a debriefing kind of 20 thing. I think that might be what that was, just to 21 go back and clarify that. 22 Q. Fair to say it was multi-jurisdictional? 23 A. Yes. 24 Q. Do you recall how long it was? 25 A. Two to four hours.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Have you received any training about 2 responding to protests? 3 A. Yes. 4 Q. What do you include in that list of 5 training that you have received? 6 A. I think that would be covered within civil 7 disobedience, when it goes from a peaceful protest to 8 a civil disobedience encounter. 9 Q. When you were a member of SLMPD did you 10 have occasion to review the department's use of force 11 policy? 12 A. Yes. 13 Q. It's my understanding all officers are 14 required to do that once a month; is that right? 15 A. That is correct. 16 Q. And did you actually do that? 17 A. Yes. 18 Q. What did that review entail? 19 A. Um, it entailed a test basically, a three 20 or four question test concerning the use of force 21 policy. 22 Q. Are the questions like hypotheticals like 23 what would you do in this circumstance or are they 24 something different than that? 25 A. I think they were more along the lines of</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Who ran that debriefing? 2 A. I want to say it was kind of a joint thing. 3 There might have been some -- um, I think the chiefs, 4 but there might have been -- yeah, pretty much ran it, 5 if I recall. 6 Q. You didn't run the training? 7 A. No. 8 Q. Or debriefing? 9 A. No. 10 Q. You participated in it? 11 A. Yes. 12 Q. Okay. Do you know if other SWAT officers 13 participated or would it have depended on whether they 14 responded to the Ferguson situation? 15 A. My sergeants might have been there, but I 16 can't say for sure. So I don't know what other SWAT 17 personnel were there. 18 Q. You were a member of CDT while you were on 19 SWAT/Mobile Reserve; right? 20 A. Correct. 21 Q. What is your understanding of what civil 22 disobedience means? 23 A. Civil disobedience is basically where a 24 crowd forms in a certain location and acts in an 25 unlawful manner because of a certain cause.</p>	<p style="text-align: right;">Page 40</p> <p>1 what the policy was, the actual policy itself. 2 Q. My understanding is the test came through 3 something called the Policy Acknowledgement System; is 4 that right? 5 A. PAS, yes. 6 Q. Are the questions the same every month? 7 A. I think they vary, but not a lot. 8 Q. To the best of your recollection, were 9 there any changes to the use of force policy while you 10 were on SWAT/Mobile Reserve? 11 A. Um, at one point I think there was a -- I 12 can't say for sure, but I thought there might have 13 been some stuff added after Ferguson relative to the 14 use of chemical munitions, but I can't remember if 15 they put that on the general policy or not. I know 16 they added a policy concerning that after a decision 17 by the federal court. That was the change that I can 18 think of. 19 Q. Do you recall what the changes were? 20 A. Just something to the effect of stuff, 21 frankly, we were already doing. That is, giving 22 directions on where you wanted people to disperse and 23 that kind of thing; making several announcements to 24 disperse and giving them directions, clearcut 25 directions, where to go and that chemical munitions</p>

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<p style="text-align: right;">Page 41</p> <p>1 could be used if they weren't followed.</p> <p>2 Q. Was that following an order in a case</p> <p>3 called Templeton versus City of St. Louis, do you</p> <p>4 recall?</p> <p>5 A. I believe so, yes.</p> <p>6 Q. Did you testify as part of that lawsuit?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Was everything you said during your</p> <p>9 testimony truthful?</p> <p>10 A. Yes.</p> <p>11 Q. I'm going to direct your attention now to</p> <p>12 the day most fully described in this case, which is</p> <p>13 August 19th of 2015.</p> <p>14 Are you aware that a police officer shot</p> <p>15 and killed a civilian named Mansur Ball-Bey on</p> <p>16 August 19th, 2015?</p> <p>17 A. Yes.</p> <p>18 Q. Are you aware that there was a protest</p> <p>19 after that?</p> <p>20 A. Yes.</p> <p>21 Q. You were a lieutenant with SWAT at that</p> <p>22 time; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Did you -- well, let me ask. If I use the</p> <p>25 term the Fountain Park neighborhood are you familiar</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Correct.</p> <p>2 Q. -- on August 19, 2015?</p> <p>3 A. Correct.</p> <p>4 Q. And then you responded a second time after</p> <p>5 the protest began; is that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. As part of SWAT on both occasions; right?</p> <p>8 A. Yes.</p> <p>9 Q. So focusing on the second time you</p> <p>10 responded to the Fountain Park neighborhood, do you</p> <p>11 recall what time you arrived there?</p> <p>12 A. It was sometime late afternoon.</p> <p>13 Q. Who told you to go there?</p> <p>14 A. Colonel Leyshock.</p> <p>15 Q. Did Colonel Leyshock tell you why you were</p> <p>16 going there?</p> <p>17 A. Just that there was a protest and people</p> <p>18 were blocking the intersection of Page and Walton.</p> <p>19 Q. Do you recall whether you arrived by</p> <p>20 yourself or with members of SWAT?</p> <p>21 A. Members of the SWAT Team.</p> <p>22 Q. Do you recall who you arrived with?</p> <p>23 A. No. I mean, the SWAT Team.</p> <p>24 Q. You recall they were SWAT, but not the</p> <p>25 specific people?</p>
<p style="text-align: right;">Page 42</p> <p>1 with that term?</p> <p>2 A. Yes, I am.</p> <p>3 Q. On August 19th, 2015, did you get deployed</p> <p>4 to the Fountain Park neighborhood?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall what time of day you arrived?</p> <p>7 A. Now this is specific to the protest, not to</p> <p>8 the search warrant during when Ball-Bey was shot;</p> <p>9 correct? You're talking about when we responded for</p> <p>10 the protest?</p> <p>11 Q. Yeah. I should clarify.</p> <p>12 A. Because this would be the second time we</p> <p>13 responded. Because we were actually -- I was part of</p> <p>14 the team that made entry. And then we left and then</p> <p>15 we were directed to come back. So just to clarify,</p> <p>16 you're talking about the second time; correct?</p> <p>17 Q. Yes.</p> <p>18 A. Okay.</p> <p>19 Q. I'm going to be asking you questions about</p> <p>20 the response to the protest, not the execution of the</p> <p>21 search warrant.</p> <p>22 A. Gotcha.</p> <p>23 Q. So just for clarity's sake, you responded</p> <p>24 to the Fountain Park protest for the purpose of</p> <p>25 executing a search warrant early in the day --</p>	<p style="text-align: right;">Page 44</p> <p>1 A. I can remember a few of them, yes.</p> <p>2 Q. Who do you recall?</p> <p>3 A. Officer Coats, Officer Busso, Officer</p> <p>4 Wethington, Manasco, Seper, Mader, Frigerio, Zwilling,</p> <p>5 Long, Joyner, Moore, Ron Allen. Those are the names</p> <p>6 that come to mind right now. There could be more.</p> <p>7 Q. Were other units also responding to</p> <p>8 Fountain Park at that time?</p> <p>9 A. There were a bunch of units there.</p> <p>10 Q. Do you recall what other units were there?</p> <p>11 A. Um, I believe Anticrime was there, Special</p> <p>12 Operations and then a bunch of district personnel.</p> <p>13 Q. Do you recall what the first thing is that</p> <p>14 you did when you got to the Fountain Park neighborhood</p> <p>15 that afternoon?</p> <p>16 A. I don't. I know at some point I talked to</p> <p>17 Colonel Leyshock and we pulled the BEAR up at one</p> <p>18 point in time and then we were directed.</p> <p>19 Q. Just to be clear, when you say the BEAR,</p> <p>20 you're talking about the tactical vehicle?</p> <p>21 A. Correct.</p> <p>22 Q. When you say you pulled it up, what does</p> <p>23 that mean? Pulled it up from where?</p> <p>24 A. Just drove up to where I guess they had a</p> <p>25 line formed.</p>

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<p style="text-align: right;">Page 45</p> <p>1 Q. Would that be at Page and Walton?</p> <p>2 A. That would have been probably at Marcus and</p> <p>3 Page, somewhere in that area.</p> <p>4 (Plaintiff Exhibit No. Dodge 4, Google</p> <p>5 Earth Map, was then marked for identification.)</p> <p>6 Q. I'm going to hand you another document</p> <p>7 which we'll mark as Dodge Exhibit 4. Just for</p> <p>8 clarity's sake, the document that I've handed to you</p> <p>9 is a map printed out from Google Maps.</p> <p>10 When we discuss the Fountain Park</p> <p>11 neighborhood, is this roughly the area that you</p> <p>12 recognize that to be?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And as I'm asking you questions you should</p> <p>15 feel free to refer to the map if it helps you talk</p> <p>16 about specific locations.</p> <p>17 We had just talked about the BEAR being</p> <p>18 pulled up to the Fountain Park neighborhood; is that</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. And I think you said that that was near</p> <p>22 Page and Marcus; is that right?</p> <p>23 A. Yes. That's where, I believe, everyone was</p> <p>24 staged when we first arrived.</p> <p>25 Q. When you say everyone, you mean police</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. Do you recall how long -- let me ask this.</p> <p>2 You were staged near Page and Marcus as</p> <p>3 well, you personally; is that right?</p> <p>4 A. Yes. Initially, yes.</p> <p>5 Q. Do you recall how long you were there?</p> <p>6 A. During -- can you get more specific?</p> <p>7 Q. Sure. When you first arrived in the</p> <p>8 Fountain Park neighborhood, the first place you went</p> <p>9 was near Page and Marcus where the other police</p> <p>10 officers were staged; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall how long you were in that</p> <p>13 location at that period?</p> <p>14 A. Specifically at Marcus and Page or in that</p> <p>15 general area?</p> <p>16 Q. Um, either one.</p> <p>17 A. I would say we were in that area for a</p> <p>18 while. Three or four -- I mean, yeah, that general</p> <p>19 area, we were there probably six or seven hours,</p> <p>20 eight. Probably even longer than that. Eight or nine</p> <p>21 hours.</p> <p>22 Q. And when you say in that general area, do</p> <p>23 you mean the neighborhood as a whole?</p> <p>24 A. Yeah. The neighborhood and in that area.</p> <p>25 Because at one point we went down to Walton and Page.</p>
<p style="text-align: right;">Page 46</p> <p>1 officers, not the civilians; right?</p> <p>2 A. Correct.</p> <p>3 Q. When you use the term "staged", what does</p> <p>4 that mean?</p> <p>5 A. Assembled. That just means that's where</p> <p>6 everyone is meeting.</p> <p>7 Q. Who made the decision to pull the BEAR up</p> <p>8 to near Page and Marcus?</p> <p>9 A. Um, everything was pretty much being</p> <p>10 directed by Chief Dotson at the time. So I can't</p> <p>11 remember specifically who told me to pull it up there,</p> <p>12 but generally speaking, I mean, obviously whenever we</p> <p>13 respond to potentially violent protests we will</p> <p>14 utilize the BEAR.</p> <p>15 Q. Chief Dotson was there personally; right?</p> <p>16 A. Yes.</p> <p>17 Q. And Colonel Leyshock as well?</p> <p>18 A. Correct.</p> <p>19 Q. You were commanding SWAT on that day?</p> <p>20 A. Yes.</p> <p>21 Q. Let me ask you this. How did the BEAR get</p> <p>22 to that staging location near Page and Marcus?</p> <p>23 A. It was driven there from headquarters.</p> <p>24 Q. By a SWAT Team member?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 Or we went down to Walton and Page, we came back, we</p> <p>2 went back down. We left. We went over to the school</p> <p>3 there at Taylor and Page. And then we went back into</p> <p>4 Bayard when the house got set on fire. So that</p> <p>5 general area right there, I can't remember exact time</p> <p>6 period, but it was a while.</p> <p>7 Q. That day were you traveling on foot or were</p> <p>8 you in a vehicle?</p> <p>9 A. I was in my vehicle.</p> <p>10 Q. Is that a cruiser of some kind?</p> <p>11 A. It's a -- it was a Tahoe. Unmarked, white</p> <p>12 Tahoe.</p> <p>13 Q. And you said, as you were describing your</p> <p>14 actions that day, "we" were moving around. Are you</p> <p>15 referring to members of SWAT when you say "we"?</p> <p>16 A. I'm referring to -- yeah. Sometimes it was</p> <p>17 everybody, sometimes it was just the SWAT Team. For</p> <p>18 instance, when they set the building on fire, it was</p> <p>19 just the SWAT Team that went down there.</p> <p>20 Q. You've described how long you were in that</p> <p>21 general area as something like eight or nine hours; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall how long you were at that</p> <p>25 specific location of near Page and Marcus?</p>

12 (Pages 45 to 48)

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<p>1 A. Well, again, we were there. We went up to</p> <p>2 Page and Walton and then we came back.</p> <p>3 So you're talking about the total time at</p> <p>4 Marcus and Page between the times we left and came</p> <p>5 back, the total amount, or just the first time we were</p> <p>6 there?</p> <p>7 Q. Just the first time you were there before</p> <p>8 you left that location?</p> <p>9 A. I don't. I'd be guessing.</p> <p>10 Q. You testified earlier that the BEAR was</p> <p>11 pulled up to the Fountain Park neighborhood from</p> <p>12 headquarters; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. How long after you arrived in the Fountain</p> <p>15 Park neighborhood was the BEAR pulled up there?</p> <p>16 A. I think we got there at the same -- pretty</p> <p>17 much the same time. I think we went down there as a</p> <p>18 unit.</p> <p>19 Q. Got it. Was the BEAR sort of traveling</p> <p>20 around, like you were traveling around in your Tahoe?</p> <p>21 A. Did it -- traveling around, do you mean did</p> <p>22 it drive from headquarters down to Page and Marcus?</p> <p>23 Q. Yes. So you've already said that the BEAR</p> <p>24 was driven from headquarters to Page and Marcus?</p> <p>25 A. Correct.</p>	<p>1 Q. Okay. And so that I understand, the BEAR</p> <p>2 moved up twice, is what you're saying? It moved up</p> <p>3 once and then it moved back and then it moved up</p> <p>4 again --</p> <p>5 A. Yes.</p> <p>6 Q. -- and then it moved back again?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Were you ever stationed on or in the</p> <p>9 BEAR?</p> <p>10 A. Our BEAR, no.</p> <p>11 Q. You clarified not our BEAR. You were on</p> <p>12 the St. Clair tactical vehicle?</p> <p>13 A. Yes, I was.</p> <p>14 Q. If you recall, when did that vehicle arrive</p> <p>15 at the scene?</p> <p>16 A. Um, that vehicle arrived a little bit</p> <p>17 later, maybe an hour or so after we got down there, at</p> <p>18 my request.</p> <p>19 Q. And did it go to that location near Page</p> <p>20 and Marcus also?</p> <p>21 A. Yes.</p> <p>22 Q. And there were officers from other</p> <p>23 jurisdictions with that vehicle; correct?</p> <p>24 A. Yes. There were two officers from the</p> <p>25 Illinois jurisdictions that were in the St. Clair</p>
Page 50	Page 52
<p>1 Q. And it went there and staged with the other</p> <p>2 officers; right?</p> <p>3 A. Correct. Yes.</p> <p>4 Q. After that point did it remain stationary</p> <p>5 near Page and Marcus for a long time or did it start</p> <p>6 traveling around like you did in your Tahoe?</p> <p>7 A. It was stationary there until we were given</p> <p>8 orders to move up. And then it came back and then it</p> <p>9 moved up again. And then we left the area. And then</p> <p>10 we responded for the fire.</p> <p>11 Q. When you say "moved up", do you mean toward</p> <p>12 the west?</p> <p>13 A. Correct.</p> <p>14 Q. So just so the record is clear, from near</p> <p>15 Page and Marcus to near Page and Walton; is that</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And you said we were given an order</p> <p>19 to do that. Who gave that order?</p> <p>20 MR. WHEATON: Objection to form. It's vague</p> <p>21 as to timeframe.</p> <p>22 A. Chief Dotson, I believe. I can't remember</p> <p>23 who specifically gave me the order, but I know Chief</p> <p>24 Dotson was in charge of the scene.</p> <p>25 BY MS. STEFFAN:</p>	<p>1 BEAR, BEAR Cat.</p> <p>2 Q. A BEAR Cat is somewhat smaller than a BEAR?</p> <p>3 A. Yes.</p> <p>4 Q. You said that vehicle arrived at your</p> <p>5 request; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you request for that vehicle to</p> <p>8 come?</p> <p>9 A. Um, because it's been my experience from</p> <p>10 the other protests that there's been a lot of gunfire</p> <p>11 associated with it. And so I wanted as much</p> <p>12 protection for my SWAT officers as possible. And the</p> <p>13 second BEAR allowed us to protect my officers and also</p> <p>14 to patrol the area at that time to ensure that</p> <p>15 everyone had dispersed from the area.</p> <p>16 Q. How did you envision that the second BEAR</p> <p>17 would help protect your officers?</p> <p>18 A. It is a bullet resistant vehicle, so if</p> <p>19 anyone were to shoot at it, anyone inside should be</p> <p>20 protected.</p> <p>21 Q. Were there St. Louis officers on that BEAR</p> <p>22 Cat?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall who?</p> <p>25 A. Myself, the two St. Clair. I think Nick</p>

13 (Pages 49 to 52)

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<p style="text-align: right;">Page 53</p> <p>1 Manasco was in there, Brandon Moore and a couple 2 others I can't remember.</p> <p>3 Q. When did you first become stationed on the 4 St. Clair BEAR Cat?</p> <p>5 A. Um, well, Chief Dodson had already given us 6 the order to disperse the crowd. And so the BEAR, the 7 city BEAR, had driven through the crowd deploying 8 chemical munitions. And at that time is when the, 9 shortly thereafter -- while that was going on or 10 shortly thereafter is when the St. Clair BEAR arrived.</p> <p>11 Q. When it arrived did you immediately get in 12 it?</p> <p>13 A. I don't know if it was right away or talked 14 to the team first or -- I can't remember the exact. I 15 don't think I got in it right away, but fairly soon 16 after it arrived.</p> <p>17 Q. I think you testified that you believed the 18 BEAR Cat would help to protect your officers and also 19 patrol the area; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. When you got on the St. Clair BEAR Cat were 22 you intending to patrol the area at that time?</p> <p>23 A. Yes.</p> <p>24 Q. Where did you go?</p> <p>25 A. I directed, I believe, Sergeant Mayo, who</p>	<p style="text-align: right;">Page 55</p> <p>1 that correct?</p> <p>2 A. Yes.</p> <p>3 Q. When an officer is making a determination 4 about whether a group has dispersed the area, what is 5 he or she looking for?</p> <p>6 A. Well, they're looking for large groups of 7 people who are leaving or who are restaging in another 8 location.</p> <p>9 Q. I think we both used the term chemical 10 munitions a few times during this deposition; correct?</p> <p>11 A. Yes.</p> <p>12 Q. That's a term you are familiar with?</p> <p>13 A. Yes.</p> <p>14 Q. What does it mean to you?</p> <p>15 A. It is a -- it's a munition that can either 16 be launched from a launcher or it can be hand-held. 17 And it emits a smoke-type material that is a chemical 18 irritant that people, you know, makes people 19 uncomfortable, makes their eyes tear up and makes them 20 want to get away from it, to leave the area.</p> <p>21 Q. Were chemical munitions deployed by St. 22 Louis Metropolitan police officers on August 19, 2015, 23 in the Fountain Park neighborhood?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know where? And you should feel</p>
<p style="text-align: right;">Page 54</p> <p>1 was in the city BEAR, to patrol the area south of Page 2 to ensure that the rioters had dispersed the area. 3 And we would patrol the north part to ensure that all 4 the rioters had left the area. So he took south of 5 Page and we were going to take north of Page.</p> <p>6 Q. You weren't driving the St. Clair BEAR Cat; 7 correct?</p> <p>8 A. No.</p> <p>9 Q. That was a St. Clair officer who was doing 10 that?</p> <p>11 A. I think he's Belleville, but I know they're 12 from St. Clair County, but not necessarily St. Clair 13 County Sheriff's Department.</p> <p>14 Q. You took -- in the St. Clair BEAR Cat you 15 took the north side of Page and Sergeant Mayo in the 16 city BEAR took the south side of Page; is that 17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And Sergeant Mayo was the highest ranking 20 officer in the city BEAR at that time; is that 21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. What did you -- well, I think you just 24 said, you testified that you directed Sergeant Mayo to 25 ensure that the rioters had dispersed the area; is</p>	<p style="text-align: right;">Page 56</p> <p>1 free to refer to the map if it helps you.</p> <p>2 A. Yes. I would say in the areas of Bayard 3 and Page, which was the initial distribution, up to 4 Euclid and Page. And I think that was the general 5 area where chemical munitions were deployed.</p> <p>6 Q. When you were on the St. Clair BEAR Cat 7 patrolling the area north of Page did that BEAR Cat 8 deploy any chemical munitions?</p> <p>9 A. Yes, we did.</p> <p>10 Q. Where at?</p> <p>11 A. The area of Bayard, around Bayard, between 12 Bayard and Euclid on the north side of the street.</p> <p>13 Q. Was the vehicle still on Page Boulevard at 14 that time?</p> <p>15 A. Yes, it was.</p> <p>16 Q. Did the St. Clair BEAR Cat deploy any 17 chemical munitions while it was driving down any 18 street other than Page?</p> <p>19 A. I believe when we made a right turn on 20 Euclid we may have deployed chemical munitions at that 21 point, too.</p> <p>22 Q. And how about the city BEAR that was 23 patrolling the area south of Page? Do you know if 24 that vehicle deployed chemical munitions anywhere 25 other than while it was driving on Page Boulevard?</p>

14 (Pages 53 to 56)

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<p style="text-align: right;">Page 57</p> <p>1 A. Maybe. I think at some point, yeah. Maybe</p> <p>2 when it made a left turn onto Euclid, right there on</p> <p>3 the corner, or when it -- I should say when it circled</p> <p>4 around and came back the first time I believe it</p> <p>5 deployed, but that was still on Page though. So, no,</p> <p>6 I'm only aware of the ones on Page.</p> <p>7 Q. While you were on the St. Clair BEAR Cat</p> <p>8 patrolling the area north of Page Boulevard were you</p> <p>9 in communication with the BEAR that was south of Page?</p> <p>10 A. I don't know if I communicated. I could</p> <p>11 have.</p> <p>12 Yeah, I would have communications with them</p> <p>13 if I needed to talk to them concerning something. I</p> <p>14 don't know if I actually communicated with them during</p> <p>15 that time though.</p> <p>16 Q. If you had wished to communicate, how would</p> <p>17 you have done that?</p> <p>18 A. On the radio.</p> <p>19 Q. And that's something you wore on your</p> <p>20 uniform?</p> <p>21 A. Yes.</p> <p>22 Q. And your officers that were on the BEAR</p> <p>23 patrolling the area south of Page Boulevard also had</p> <p>24 radios on their uniforms?</p> <p>25 A. Yes, they do.</p>	<p style="text-align: right;">Page 59</p> <p>1 disperse the crowd. And at that point I told them to</p> <p>2 disperse the crowd. And at that point it would have</p> <p>3 been, I think, Officer Coats, who was on top of the</p> <p>4 BEAR, who initially deployed from the launcher.</p> <p>5 Q. The launcher sort of looks like a gun?</p> <p>6 A. Yes.</p> <p>7 Q. But is capable of just deploying a chemical</p> <p>8 agent; is that right?</p> <p>9 A. That's correct.</p> <p>10 Q. Did the St. Clair BEAR Cat have launchers</p> <p>11 on board?</p> <p>12 A. Yes, I believe so.</p> <p>13 Q. And that's what Officer Manasco used?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know if the city BEAR had multiple</p> <p>16 launchers on board or did Officer Coats have the only</p> <p>17 one?</p> <p>18 A. I am unaware.</p> <p>19 Q. How many launchers does SWAT have or did it</p> <p>20 have at the time?</p> <p>21 A. I want to say -- ah, do you want me to give</p> <p>22 you an estimate?</p> <p>23 Q. Just an estimate, yeah.</p> <p>24 A. I would say two multi-launchers and three</p> <p>25 or four single launchers.</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. Did you personally deploy any chemical</p> <p>2 munitions on August 19, 2015?</p> <p>3 A. No.</p> <p>4 Q. You did see chemical munitions deployed</p> <p>5 from the St. Clair BEAR Cat; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Who deployed those?</p> <p>8 A. I believe Nick Manasco.</p> <p>9 Q. Anyone else?</p> <p>10 A. No.</p> <p>11 Q. And did you see the city BEAR deploy any</p> <p>12 chemical munitions?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know who deployed those?</p> <p>15 A. The initial -- the first time we were told</p> <p>16 by Chief Dotson to disperse the crowd when the BEAR</p> <p>17 drove westbound on -- well, actually, check that.</p> <p>18 Before we even did that, we deployed a</p> <p>19 pepper ball because we went up the use of force</p> <p>20 continuum. So we deployed the inert smoke, which was</p> <p>21 done, I believe, by Manasco or it could have been done</p> <p>22 by somebody else. But I know we deployed the inert</p> <p>23 smoke and then we deployed the pepper ball. And then</p> <p>24 they kept throwing bricks.</p> <p>25 At that point Chief Dotson told me to</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. You'll have to explain. What's the</p> <p>2 difference between a multi and a single launcher?</p> <p>3 A. A single, you can only launch one at a time</p> <p>4 whereas the multi has almost like a cylinder that</p> <p>5 holds multiple cartridges and it rotates as you shoot.</p> <p>6 Q. I think earlier you had testified that</p> <p>7 chemical munitions could be launched with a launcher</p> <p>8 or thrown by hand; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. How do you make a decision about which is</p> <p>11 appropriate?</p> <p>12 A. Well, I mean, it's a tactical decision</p> <p>13 based on obviously your distance to the crowd. If you</p> <p>14 need to keep your distance from the crowd then you're</p> <p>15 more likely to use the launcher. If you are able to</p> <p>16 get closer to the crowd, then the hand-helds are</p> <p>17 better in terms of they disperse more of the tear gas.</p> <p>18 Q. I believe what you testified earlier is</p> <p>19 that you told Sergeant Mayo to use the BEAR to patrol</p> <p>20 the area south of Page Boulevard and to ensure that</p> <p>21 rioters were dispersed; is that right?</p> <p>22 A. That's correct.</p> <p>23 Q. How did you convey that instruction to him?</p> <p>24 A. I told him -- I believe I told him that,</p> <p>25 after they had dispersed the crowd initially and then</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">Page 61</p> <p>1 came back and met between Marcus and Walton, had a</p> <p>2 conversation with him telling him that.</p> <p>3 Q. And when you say that that conversation</p> <p>4 occurred after they had dispersed the crowd initially,</p> <p>5 when you say "they" you mean the BEAR when it had --</p> <p>6 it had already traveled a circuit at that point?</p> <p>7 A. It had already gone up to Euclid, deployed</p> <p>8 gas at Bayard and at Euclid and then came back to</p> <p>9 where we were, to where we were standing.</p> <p>10 Q. Okay. Who had told either Sergeant Mayo or</p> <p>11 the other officers on the BEAR to make that first loop</p> <p>12 when it deployed gas the first time?</p> <p>13 A. I did.</p> <p>14 Q. Okay.</p> <p>15 A. Yeah.</p> <p>16 Q. So it was two times?</p> <p>17 A. Yes. Yes. That was when Chief Dotson gave</p> <p>18 me the order to disperse the crowd. Then I told him</p> <p>19 go ahead or told, I believe it was him, and the people</p> <p>20 in the BEAR, go ahead and deploy gas to disperse the</p> <p>21 crowd.</p> <p>22 Q. So the first time you told that to Sergeant</p> <p>23 Mayo you're sort of relaying an order from Chief</p> <p>24 Dotson; is that right?</p> <p>25 A. Essentially, yeah. I mean, he asked me.</p>	<p style="text-align: right;">Page 63</p> <p>1 gas dissipated come back out and resume throwing rocks</p> <p>2 and bricks and looting and that kind of thing.</p> <p>3 Q. When you could see the people that you were</p> <p>4 concerned would come back, where were you? Were you</p> <p>5 on Page Boulevard at that time?</p> <p>6 A. I was on Page Boulevard, yes. Just -- Page</p> <p>7 near Walton, probably just a little bit down from</p> <p>8 Walton.</p> <p>9 Q. Do you know how many chemical munitions the</p> <p>10 St. Clair BEAR Cat deployed?</p> <p>11 A. I do not. It wasn't very many. Two or</p> <p>12 three is a guess.</p> <p>13 Q. And how about the city BEAR, do you know</p> <p>14 how many chemical munitions it deployed?</p> <p>15 A. No.</p> <p>16 MR. WHEATON: It's been about an hour and a</p> <p>17 half. I could use a quick break, if it's a good time.</p> <p>18 MS. STEFFAN: Sure. That's fine.</p> <p>19 (A short break was then taken.)</p> <p>20 BY MS. STEFFAN:</p> <p>21 Q. Chief, do you know the Plaintiffs in this</p> <p>22 case?</p> <p>23 A. I do not.</p> <p>24 Q. I'm just going to run through their names</p> <p>25 just to be clear. You don't know Sarah Molina?</p>
<p style="text-align: right;">Page 62</p> <p>1 Chief Dotson asked me what would I do to disperse the</p> <p>2 crowd and I explained to him we're going to drive</p> <p>3 through the crowd and deploy the hand-helds in the</p> <p>4 areas where the rioters are, the people throwing</p> <p>5 bricks at us, to clear them out.</p> <p>6 Q. Okay. And then he said yes, go ahead and</p> <p>7 do that, is that what you're saying?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then the second time when you</p> <p>10 had a conversation with Sergeant Mayo, was that also</p> <p>11 after you had talked with Chief Dotson or was that on</p> <p>12 your own initiative?</p> <p>13 A. About patrolling the area?</p> <p>14 Q. Yeah.</p> <p>15 A. That was on my own initiative.</p> <p>16 Q. Okay.</p> <p>17 A. But that was still part of the original</p> <p>18 order to make sure the crowd had dispersed.</p> <p>19 Q. Got it.</p> <p>20 A. Because what I had observed were subjects</p> <p>21 were coming back after that initial deployment of tear</p> <p>22 gas. You could see people who were still off to the</p> <p>23 side and weren't leaving. And so it was my concern</p> <p>24 that they weren't leaving, they were just going to</p> <p>25 stage in behind the buildings, and then when the tear</p>	<p style="text-align: right;">Page 64</p> <p>1 A. No.</p> <p>2 Q. Christina Vogel?</p> <p>3 A. No.</p> <p>4 Q. Peter Groce?</p> <p>5 A. No.</p> <p>6 Q. Could you pick any of them out of a crowd?</p> <p>7 A. No.</p> <p>8 Q. Are you familiar with the term legal</p> <p>9 observer?</p> <p>10 A. Yes.</p> <p>11 Q. What does it mean to you?</p> <p>12 A. They are, I believe, part of the ACLU who</p> <p>13 wear the bright green hats, neon hats, who observe</p> <p>14 protests and civil disobedience events.</p> <p>15 Q. Have you ever seen people wearing those</p> <p>16 bright green hats out at protests?</p> <p>17 A. Yes.</p> <p>18 Q. Did you see people wearing bright green</p> <p>19 hats that you believed to be legal observers at the</p> <p>20 event on August 19th, 2015?</p> <p>21 A. I believe so.</p> <p>22 Q. When you were on the St. Clair BEAR Cat</p> <p>23 either on Page Boulevard or patrolling the area north</p> <p>24 of Page Boulevard, were there other officers telling</p> <p>25 you where people were, by radio?</p>

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<p>1 A. No.</p> <p>2 Q. You were just observing where people were;</p> <p>3 correct?</p> <p>4 A. Correct. If they did, I don't remember it.</p> <p>5 But generally speaking, no. We were on patrol</p> <p>6 ourselves.</p> <p>7 Q. Where were you stationed on the BEAR Cat?</p> <p>8 A. On the passenger side.</p> <p>9 Q. Like sitting in a seat up next to the</p> <p>10 driver?</p> <p>11 A. I don't think I was in the front seat. I</p> <p>12 can't remember. I just remember being on the</p> <p>13 passenger side. I think it was on the right side. I</p> <p>14 don't know if I was in the front seat or not, but I</p> <p>15 know I was on the passenger side.</p> <p>16 Q. I assume you've ridden in the city BEAR</p> <p>17 before as well; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Thinking back to the times when you've been</p> <p>20 stationed on the city BEAR, have you been both on top</p> <p>21 and in the inside part?</p> <p>22 A. Yes. I've been in the inside part and,</p> <p>23 yes, I've gone to the top of the BEAR.</p> <p>24 Q. If you're on the inside part and you want</p> <p>25 to see out of the BEAR, how do you do that?</p>	<p>1 indicated that it went south on Euclid.</p> <p>2 Q. In the course of our discussion today when</p> <p>3 you've been talking about chemical munitions I think</p> <p>4 you've mentioned smoke-like substances and tear gas;</p> <p>5 is that right?</p> <p>6 A. Yeah. Same thing.</p> <p>7 Q. Are there other kinds of chemical munitions</p> <p>8 besides smoke and tear gas?</p> <p>9 A. Like a pepper ball, pepper spray.</p> <p>10 Q. When we've been using the term chemical</p> <p>11 munition, does that include hand-held pepper spray or</p> <p>12 mace to your understanding?</p> <p>13 A. Um, it can; although, generally I think</p> <p>14 more in terms of chemical munitions in terms of SWAT</p> <p>15 is more of the canisters that we throw or, you know,</p> <p>16 shot from a launcher, but, yeah, I guess technically</p> <p>17 it could include general hand-held mace.</p> <p>18 Q. Were you wearing a body cam on August 19,</p> <p>19 2015?</p> <p>20 A. No.</p> <p>21 Q. To your knowledge was anyone on SWAT?</p> <p>22 A. No.</p> <p>23 Q. Do you know if the BEAR has video</p> <p>24 capability?</p> <p>25 A. It does not.</p>
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<p>1 A. There's windows. I believe there's windows</p> <p>2 on the side and there's also portals on the side.</p> <p>3 Q. Do you know if the city BEAR at the time it</p> <p>4 was patrolling the area south of Page Boulevard ever</p> <p>5 went into Fountain Park proper, which if you look at</p> <p>6 the map in front of you is the oval toward the bottom</p> <p>7 of the page?</p> <p>8 A. I have no direct knowledge of that.</p> <p>9 Q. Do you have indirect knowledge of it?</p> <p>10 A. Yes. The accusation that was made here. I</p> <p>11 believe it did head down that way because I was told</p> <p>12 it did.</p> <p>13 Q. Who were you told it did by?</p> <p>14 A. In the lawsuit.</p> <p>15 Q. Putting aside the allegations in the</p> <p>16 lawsuit -- (attorney did not finish question.)</p> <p>17 A. And I believe when we made a right, the</p> <p>18 BEAR made a left onto Euclid.</p> <p>19 Q. Okay.</p> <p>20 A. We made a right on Euclid to go north. The</p> <p>21 BEAR, I believe, made a left to go south on Euclid.</p> <p>22 Where it went from there I don't know, other than</p> <p>23 what's been reported.</p> <p>24 Q. I understand.</p> <p>25 A. And in the After Action Report I believe it</p>	<p>1 Q. How about the St. Clair BEAR Cat?</p> <p>2 A. Not that I know of.</p> <p>3 Q. Do you know if the city BEAR has GPS</p> <p>4 capability?</p> <p>5 A. I am not aware of that.</p> <p>6 Q. The St. Clair BEAR Cat, do you know if it</p> <p>7 has GPS capability?</p> <p>8 A. No idea.</p> <p>9 Q. Earlier in your testimony you mentioned a</p> <p>10 federal court order that required police to tell</p> <p>11 people how to disperse from an area; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember when that court order was</p> <p>14 issued? Let me clarify.</p> <p>15 Do you remember if it was before or after</p> <p>16 the events that we've been talking about today on</p> <p>17 August 19th, 2015?</p> <p>18 A. It was before.</p> <p>19 Q. Thinking back to your experience on</p> <p>20 August 19, 2015, and everything you know about how the</p> <p>21 police responded that day, do you believe that the</p> <p>22 requirements of that court order were complied with?</p> <p>23 A. Absolutely. Many times over. Commands and</p> <p>24 directions to leave were given 20, 30 plus times.</p> <p>25 Q. How were those directions given? Were they</p>

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<p style="text-align: right;">Page 69</p> <p>1 verbally or over a P.A. system?</p> <p>2 A. Over a P.A. system.</p> <p>3 Q. Is that a P.A. system on the BEAR?</p> <p>4 A. I think they were done by both. I think</p> <p>5 when we first got there they were giving commands over</p> <p>6 a P.A. system on a police vehicle and then we were</p> <p>7 giving them over the BEAR.</p> <p>8 Q. Did you give any of those directions?</p> <p>9 A. I think I did when I got in the St. Clair</p> <p>10 BEAR. I believe I got on there and gave several</p> <p>11 directions as well to leave the area.</p> <p>12 Q. So three different P.A. systems; is that</p> <p>13 right?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. Do you recall what you said?</p> <p>16 A. Yes. I said this is -- I can't remember my</p> <p>17 exact words, but it was something to the effect of</p> <p>18 "This is an unlawful assembly. Immediately disperse</p> <p>19 the area. Go west on Page; north on Walton; north on</p> <p>20 Bayard; south on Walton. If you do not comply,</p> <p>21 chemical munitions may be used." Something to that</p> <p>22 effect.</p> <p>23 Q. You gave that order or that instruction</p> <p>24 over the P.A. on the St. Clair BEAR Cat; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 71</p> <p>1 A. Somewhat. I mean, we went to the school</p> <p>2 there near Taylor and Page.</p> <p>3 Q. Is that Ranken?</p> <p>4 A. Yeah, Ranken. Ranken. We were in their</p> <p>5 parking lot.</p> <p>6 Q. How long were you in the Ranken parking lot</p> <p>7 before you came back?</p> <p>8 A. An hour or so, a couple hours maybe.</p> <p>9 Probably an hour.</p> <p>10 Q. How did you know to leave the first time</p> <p>11 and go to the Ranken parking lot?</p> <p>12 A. Well, I remember talking to Colonel O'Toole</p> <p>13 and I said -- I told -- I don't know if this had any</p> <p>14 bearing on his decision, but I remember talking to</p> <p>15 Colonel O'Toole and saying, hey, based on what we've</p> <p>16 dealt with in the past when it gets dark it could get</p> <p>17 very violent out here and we could get shot. So if</p> <p>18 we're not going to take any more actions to disperse</p> <p>19 the crowd, I think for the officers' safety purposes</p> <p>20 we need to get out of here.</p> <p>21 And I don't know if that had any bearing on</p> <p>22 his decision, but soon after that he said, all right,</p> <p>23 let's go. Then we left and went over to Ranken.</p> <p>24 But that was my concern when it got dark</p> <p>25 because it's been my experience that's when the guns</p>
<p style="text-align: right;">Page 70</p> <p>1 A. I think so. Either there -- I can't</p> <p>2 remember for sure. I thought it was, but I know at</p> <p>3 one point we were there with a van too, but I don't</p> <p>4 know if it had a P.A. It was either from the van or</p> <p>5 the St. Clair BEAR.</p> <p>6 Q. And you heard other officers give similar</p> <p>7 instructions?</p> <p>8 A. Yes. A lot.</p> <p>9 Q. I think a long time ago in your testimony</p> <p>10 you mentioned that you left the Fountain Park</p> <p>11 neighborhood altogether and came back when the car was</p> <p>12 on fire or the house was on fire?</p> <p>13 A. Yeah. We were there to provide protection</p> <p>14 for the fire department because they were fighting a</p> <p>15 vacant house fire.</p> <p>16 Q. Okay. Do you recall what time that was at?</p> <p>17 A. It was dark out. No, I don't remember the</p> <p>18 exact time. It was dark out. I mean, I could guess</p> <p>19 say maybe 9, 10, 11:00, somewhere through there.</p> <p>20 Q. Fair to say that it was late evening?</p> <p>21 A. Maybe earlier. Actually, I'd take that --</p> <p>22 you know, I would say 8 or 9:00.</p> <p>23 Q. Okay. Before you returned to assist the</p> <p>24 fire department you had left the Fountain Park</p> <p>25 neighborhood altogether; is that correct?</p>	<p style="text-align: right;">Page 72</p> <p>1 start getting shot during these protests. And that</p> <p>2 was my concern with the officers.</p> <p>3 Q. When you were speaking to Colonel O'Toole</p> <p>4 you said we should leave if we're not going to take</p> <p>5 any further actions to disperse the crowd; is that</p> <p>6 correct?</p> <p>7 A. Correct. If we're not going to clear the</p> <p>8 crowd, then we need to get out of here.</p> <p>9 Q. Okay. How did you know to have stopped</p> <p>10 taking actions to disperse the crowd at that point?</p> <p>11 MR. WHEATON: Objection. Form.</p> <p>12 BY MS. STEFFAN:</p> <p>13 Q. Do you understand what I'm asking?</p> <p>14 A. Um, at that point we were directed by Sam</p> <p>15 Dotson, Chief Dotson, to stop dispersing the crowd.</p> <p>16 Q. How did Chief Dotson convey that direction</p> <p>17 to you?</p> <p>18 A. Through Colonel Leyshock and Colonel</p> <p>19 O'Toole, I believe.</p> <p>20 And then at one point he had directed me to</p> <p>21 call the BEAR back.</p> <p>22 Q. And how did -- if I understand what you've</p> <p>23 just said, Chief Dotson told Colonel Leyshock to tell</p> <p>24 you something; is that right?</p> <p>25 A. I believe so. I don't remember, to be</p>

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<p>1 honest with you.</p> <p>2 Q. Yeah.</p> <p>3 A. I just remember at one point Chief Dotson</p> <p>4 had ordered me to call the BEAR out, the city BEAR</p> <p>5 back, which was on patrol. He ordered me back and</p> <p>6 then he told me to have the city BEAR come back.</p> <p>7 Q. Okay.</p> <p>8 A. At that point we stopped dispersing any</p> <p>9 more of the crowd.</p> <p>10 Q. At that time you were on the St. Clair BEAR</p> <p>11 Cat north of Page and the city BEAR was on the south</p> <p>12 side of Page; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. How did you tell the city BEAR that it</p> <p>15 should come back?</p> <p>16 A. By radio.</p> <p>17 Q. Okay. Is that how Colonel Leyshock</p> <p>18 conveyed that order to you also, was by radio?</p> <p>19 A. Yes. Colonel Leyshock got a hold of me on</p> <p>20 the radio and told me to respond back to Marcus and</p> <p>21 Page.</p> <p>22 Q. Do you recall what channel you were using?</p> <p>23 A. I do not.</p> <p>24 Q. Do you recall what channels are available</p> <p>25 to you? My understanding is there's lots, but there</p>	<p>1 you when you got back there?</p> <p>2 A. Apparently he had informed me that the</p> <p>3 chief was upset because he didn't know that the St.</p> <p>4 Clair BEAR had been requested.</p> <p>5 Q. Anything else?</p> <p>6 A. That was the gist of his conversation with</p> <p>7 me.</p> <p>8 Q. Did you talk to the chief directly?</p> <p>9 A. Soon after that.</p> <p>10 Q. What did the chief say?</p> <p>11 A. He wanted me to call back the city BEAR</p> <p>12 back to the scene.</p> <p>13 Q. When you got back to Page and Marcus with</p> <p>14 the St. Clair BEAR Cat, was the city BEAR already</p> <p>15 there or it came back sometime later?</p> <p>16 A. It came back a little bit later.</p> <p>17 Q. It came back because you told it to come</p> <p>18 back?</p> <p>19 A. Yes.</p> <p>20 Q. Who did you tell on the BEAR that you</p> <p>21 wanted it to come back?</p> <p>22 A. I don't recall. I think I just said -- I</p> <p>23 don't recall my exact words or who they were to. It</p> <p>24 might have been Sergeant Mayo, I'm guessing.</p> <p>25 Q. Did you use a call sign on the radio?</p>
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<p>1 are only a few that --</p> <p>2 A. There's a ton.</p> <p>3 Q. -- the department uses regularly?</p> <p>4 A. Yeah. There's several channels that are</p> <p>5 available to Mobile/SWAT, and actually the whole</p> <p>6 department. They've got a ton of them on there.</p> <p>7 Q. Do you recall if -- I understand you don't</p> <p>8 recall what channels you were using or what channel</p> <p>9 you were using, but do you recall whether Colonel</p> <p>10 Leyshock's instruction to you and your instruction to</p> <p>11 the city BEAR were on the same channel or if you had</p> <p>12 to change channels in order to communicate with the</p> <p>13 BEAR?</p> <p>14 A. I don't recall that.</p> <p>15 Q. Okay. And you did comply with that</p> <p>16 instruction; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. You went back to the Page and Marcus area?</p> <p>19 A. Yes.</p> <p>20 Q. And that's where you had the conversation</p> <p>21 with Mr. O'Toole?</p> <p>22 A. Um, at that point it was more with -- when</p> <p>23 I initially got back it was more with Colonel Leyshock</p> <p>24 and then Chief Dotson.</p> <p>25 Q. Got it. What did Colonel Leyshock say to</p>	<p>1 A. I don't know.</p> <p>2 Q. Did you have a call sign?</p> <p>3 A. Yes.</p> <p>4 Q. What was it?</p> <p>5 A. 7100.</p> <p>6 Q. And did each individual officer stationed</p> <p>7 on the BEAR have their own call sign or does the</p> <p>8 vehicle have a call sign?</p> <p>9 A. Well, it just depends. Because when we</p> <p>10 were on tactical operations, a lot of times we'll just</p> <p>11 go by names. Each officer is issued a call sign, but</p> <p>12 they're also issued a call sign with their partner.</p> <p>13 Q. It seems confusing.</p> <p>14 A. It can be.</p> <p>15 Q. I have also heard on radio transmissions</p> <p>16 Cruiser 2, Cruiser 3. Are you familiar with terms</p> <p>17 like that?</p> <p>18 A. Yes.</p> <p>19 Q. If Cruiser 2 is used, do you know who that</p> <p>20 refers to?</p> <p>21 A. It's a colonel. I'm not sure which one.</p> <p>22 Cruiser 1 is the chief. Beyond that I can't remember</p> <p>23 which cruiser is assigned to which colonel, but, yes.</p> <p>24 Q. Fair to say if you refer to yourself as a</p> <p>25 cruiser you are a pretty high ranking officer; is that</p>

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<p>1 fair?</p> <p>2 A. Yes.</p> <p>3 Q. How far do the cruiser numbers go?</p> <p>4 A. How ever many colonels there are. I don't</p> <p>5 know how many they have right now. Four or five, who</p> <p>6 knows.</p> <p>7 Q. Is it only the chief and colonels who use</p> <p>8 that term?</p> <p>9 A. Yes, other than the term for a cruiser is</p> <p>10 also the paddy wagon too, which is kind of confusing</p> <p>11 there too, but, yes, generally speaking.</p> <p>12 Q. Any chance you would recall what Sergeant</p> <p>13 Mayo's call sign was at the time?</p> <p>14 A. It would be either 7101, '02 or '03. I'm</p> <p>15 not sure. One of those three though.</p> <p>16 Q. So 7100 as a category referred to SWAT?</p> <p>17 A. Yeah, that's the Mobile Reserve/SWAT unit.</p> <p>18 And then all the numbers go from there.</p> <p>19 Q. Just to be clear, is there some difference</p> <p>20 between Mobile Reserve and SWAT?</p> <p>21 A. It's the same unit. Kind of two different</p> <p>22 functions, but it's the same unit.</p> <p>23 (Plaintiff Exhibit No. Dodge 5, After</p> <p>24 Action Report, was then marked for identification.)</p> <p>25 Q. Let me hand you a document. Earlier you</p>	<p>1 some inconsistencies in it and meant to make</p> <p>2 corrections, got caught up in some other stuff, it</p> <p>3 kind of got out of mind. I transferred from the unit</p> <p>4 and then left the department. And I never went back</p> <p>5 and had them make the corrections, which is on me.</p> <p>6 Q. So this is the first draft that you saw, is</p> <p>7 what we have?</p> <p>8 A. It's the only draft I saw and I did not</p> <p>9 make my corrections on this.</p> <p>10 Q. But there are some inconsistencies in this</p> <p>11 document?</p> <p>12 A. Yes. Yes.</p> <p>13 Q. Could you point them out?</p> <p>14 A. Well, I mean, you know, I think the biggest</p> <p>15 thing it does here is we had two different times where</p> <p>16 we went down and deployed gas and I think this kind of</p> <p>17 blends two of them into one, in reading it.</p> <p>18 The other thing I noticed, it didn't have</p> <p>19 me in the -- I don't think it had me in the BEAR Cat,</p> <p>20 which I was.</p> <p>21 Those are the ones that stick out the most.</p> <p>22 But I think somehow, the best I can tell, it blended</p> <p>23 two of them into one.</p> <p>24 Q. Other than blending those two circuits into</p> <p>25 one and also not stating that you were on the St.</p>
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<p>1 used the term After Action Report. Is this what you</p> <p>2 were referring to, what I've handed you as Dodge</p> <p>3 Exhibit 5?</p> <p>4 A. Yes, it is.</p> <p>5 Q. Have you seen the After Action Report</p> <p>6 before?</p> <p>7 A. Yes.</p> <p>8 Q. Did you write it?</p> <p>9 A. I did not.</p> <p>10 Q. Do you know who wrote it?</p> <p>11 A. Nick Manasco.</p> <p>12 Q. Did you contribute information to it?</p> <p>13 A. Um, not much.</p> <p>14 Q. Do you recall contributing anything</p> <p>15 specifically?</p> <p>16 A. Nothing specifically, no.</p> <p>17 Q. Do you remember when the first time you saw</p> <p>18 it was?</p> <p>19 A. Um, it would have been within, I would say,</p> <p>20 two or three weeks after the incident.</p> <p>21 Q. Was it fully completed when you saw it the</p> <p>22 first time?</p> <p>23 A. It was fully completed by the officer, yes.</p> <p>24 Q. Did you have to review it also?</p> <p>25 A. I did review it. And I noticed there were</p>	<p>1 Clair BEAR Cat, were there other inconsistencies that</p> <p>2 you noted?</p> <p>3 A. Those were the two major ones or the</p> <p>4 biggest ones.</p> <p>5 Q. Do you know what the process is for</p> <p>6 drafting an After Action Report?</p> <p>7 A. Well, yeah. I instructed Nick Manasco,</p> <p>8 who's done our other previous After Action Reports, to</p> <p>9 gather as much information and interview as many</p> <p>10 people as you can and write the After Action Report to</p> <p>11 the best of your ability. It's a very difficult</p> <p>12 process because we're not documenting the incident as</p> <p>13 it's happening, so a lot of times you've got to do it</p> <p>14 from memory. And these are pretty chaotic situations,</p> <p>15 so obviously mistakes can be made and not everything</p> <p>16 be included in it.</p> <p>17 Q. Did you -- well, you know that Officer</p> <p>18 Manasco did in fact write the report; correct?</p> <p>19 A. He wrote this, yes.</p> <p>20 Q. Do you know how he gathered information</p> <p>21 from the report?</p> <p>22 A. Um, I believe just from interviewing other</p> <p>23 members.</p> <p>24 Q. Of SWAT?</p> <p>25 A. Yes.</p>

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<p>1 Q. Did he interview you?</p> <p>2 A. Um, I'm sure we talked about it at some</p> <p>3 point in time, yeah, because I think we talked about</p> <p>4 when I was given the order, unless he observed it, to</p> <p>5 go ahead and deploy the first time from Chief Dotson.</p> <p>6 Q. And was that an interview?</p> <p>7 A. It wasn't a formal interview. I was just</p> <p>8 telling him, hey, you know, this is what -- this is</p> <p>9 the point. Because he was there too, so he might have</p> <p>10 even observed that, to be honest with you, so. I</p> <p>11 don't really remember.</p> <p>12 Q. Do you know whether he had discussions with</p> <p>13 other officers in order to collect information?</p> <p>14 A. I believe he would have, yes, but I don't</p> <p>15 know. I wasn't there for any interviews that he</p> <p>16 conducted.</p> <p>17 Q. Do you know if Officer Manasco took notes</p> <p>18 from your conversation with him?</p> <p>19 A. No. I'm unaware. I don't know either way.</p> <p>20 Q. You mentioned that it's difficult to write</p> <p>21 an After Action Report because officers are not</p> <p>22 documenting things as they happen and sometimes scenes</p> <p>23 are chaotic; is that right?</p> <p>24 A. Yeah. Long and chaotic, absolutely.</p> <p>25 Q. Are you familiar with something called a</p>	<p>1 A. I mean, soon after the incident.</p> <p>2 Q. The same day or some other day?</p> <p>3 A. I mean, it was probably within the week</p> <p>4 afterwards.</p> <p>5 Q. Does he have any training on report</p> <p>6 writing, to your knowledge?</p> <p>7 A. Through the department.</p> <p>8 Q. What kind of training through the</p> <p>9 department?</p> <p>10 A. From the police academy. And he's probably</p> <p>11 written a thousand police reports. And before this he</p> <p>12 did the After Action in Ferguson and on South Grand,</p> <p>13 so he's done two previous ones.</p> <p>14 Q. For Spot (phonetic)?</p> <p>15 A. Yes.</p> <p>16 Q. With those previous After Action Reports,</p> <p>17 did you also review those?</p> <p>18 A. Yes.</p> <p>19 Q. And were you able to fix things that you</p> <p>20 thought were a problem?</p> <p>21 A. Yes, those I was able to make corrections.</p> <p>22 Q. Is there some kind of sign-off process?</p> <p>23 A. For After Action Reports, no. It's</p> <p>24 basically an internal document that we use just to</p> <p>25 document what we did, where we did it, that kind of</p>
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<p>1 Documentation Team?</p> <p>2 A. Yes.</p> <p>3 Q. There was no Documentation Team for this</p> <p>4 event; is that correct?</p> <p>5 A. I don't know if they had one for the</p> <p>6 initial response. That would have been separate from</p> <p>7 us, what we were doing, but I did not have a</p> <p>8 Documentation Team assigned to the SWAT Team for our</p> <p>9 gas deployments.</p> <p>10 Q. Do you know if there was someone aboard the</p> <p>11 city BEAR who was responsible for keeping track of</p> <p>12 where the BEAR was or what chemical munitions --</p> <p>13 A. No.</p> <p>14 Q. -- were deployed or anything like that?</p> <p>15 A. No.</p> <p>16 Q. No, there was no one responsible or, no,</p> <p>17 you don't know?</p> <p>18 A. No, there was no single person responsible</p> <p>19 counting every chemical munition and where it was.</p> <p>20 There was no documentation person like that. Pretty</p> <p>21 much each officer is responsible for, to the best of</p> <p>22 their ability, remembering what they did and where</p> <p>23 they did it.</p> <p>24 Q. When did you direct Officer Manasco to</p> <p>25 draft this report?</p>	<p>1 thing.</p> <p>2 Q. Was there an After Action Review following</p> <p>3 this incident?</p> <p>4 A. Um, I don't remember.</p> <p>5 Q. This might be the same thing. I'm not</p> <p>6 sure. Was there a Critical Incident Review?</p> <p>7 A. I know we got together with some of the</p> <p>8 commanders and discussed this, yes. Yes, there was.</p> <p>9 Yes, there was. Either the next day or a couple of</p> <p>10 days later we did get with -- I think it was the next</p> <p>11 day. Several of the commanders got together and did</p> <p>12 kind of a Critical Incident Review of what happened</p> <p>13 the day before.</p> <p>14 Q. Where was that?</p> <p>15 A. Headquarters.</p> <p>16 Q. And you said some of the commanders. Is</p> <p>17 that commanders of different units?</p> <p>18 A. I mean all of the commanders and probably</p> <p>19 some supervisors. I don't remember if the police</p> <p>20 officers were there or not, but I think it was mostly</p> <p>21 supervisors.</p> <p>22 Q. How long did it last?</p> <p>23 A. A couple hours.</p> <p>24 Q. Who ran that?</p> <p>25 A. Chief Dotson and Colonel Leyshock.</p>

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<p style="text-align: right;">Page 85</p> <p>1 Q. Were you required to attend?</p> <p>2 A. Yes.</p> <p>3 Q. Who else was there?</p> <p>4 A. Those are the two I remember the most. I</p> <p>5 think Captain Deebe was there and Major -- I can't</p> <p>6 remember if Major Cagle was there maybe. And a bunch</p> <p>7 of the other commanders were there at the scene, I</p> <p>8 believe.</p> <p>9 Q. Is it fair to say it was a dozen people or</p> <p>10 less?</p> <p>11 A. Um, it could have been more. I just</p> <p>12 remember that part of it.</p> <p>13 Q. What was the goal of that review?</p> <p>14 A. Just to go over what we did the day before</p> <p>15 and learn from it and prepare, actually, because we</p> <p>16 were getting prepared, um, for more protests to be</p> <p>17 coming.</p> <p>18 So it wasn't just a review of the night</p> <p>19 before, but it was also to meet and discuss what</p> <p>20 actions we were going to take over the next several</p> <p>21 days to prepare for it, for the protests that were</p> <p>22 going to take place there again over the course of the</p> <p>23 next few days.</p> <p>24 Q. Did you review any audio or video at that</p> <p>25 After Action Review?</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. You said you also went over what you had</p> <p>2 done and discussed whether or not there were things</p> <p>3 you could have done better; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. What was your take away as far as things</p> <p>6 that you could have done better?</p> <p>7 A. Well, where we were staged wasn't very good</p> <p>8 because the wind was blowing in our face, so when we</p> <p>9 deployed the tear gas, a lot of the policemen were</p> <p>10 taking in the tear gas. And they didn't have their</p> <p>11 CDT equipment or their gas masks. So that was one</p> <p>12 takeaway of something we could have done better.</p> <p>13 Q. Anything else?</p> <p>14 A. Nothing that I can recall.</p> <p>15 Q. How did you know that you were supposed to</p> <p>16 attend the After Action Review?</p> <p>17 A. I was instructed by somebody.</p> <p>18 Q. You don't recall who?</p> <p>19 A. I can guess.</p> <p>20 Q. Okay. Someone above you?</p> <p>21 A. Yes. Or by email or somehow, but someone</p> <p>22 told me to be at the After Action Review.</p> <p>23 Q. Okay. Your officers who were under your</p> <p>24 command may or may not have been there; is that right?</p> <p>25 A. I don't think they were. I think it was</p>
<p style="text-align: right;">Page 86</p> <p>1 A. No. Actually, I shouldn't say that. I</p> <p>2 can't recall. I can't recall.</p> <p>3 Q. Was it primarily sort of verbal discussion</p> <p>4 based?</p> <p>5 A. Yes, I believe so.</p> <p>6 Q. You said Chief Dotson and Colonel Leyshock</p> <p>7 are who ran the After Action Review; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. They talked the most?</p> <p>10 A. Yes.</p> <p>11 Q. I understand it was a couple hours long,</p> <p>12 but generally what did they say?</p> <p>13 A. Just went over the actions we took and what</p> <p>14 we did and what we could have done better and how we</p> <p>15 were going to prepare for the next few days of</p> <p>16 potential protests.</p> <p>17 Q. What was your takeaway about how to prepare</p> <p>18 for the next days of protests you anticipated?</p> <p>19 A. Just in terms of what man hours we're going</p> <p>20 to work, where are we going to stage, a lot of</p> <p>21 logistical type stuff. You know, what are --</p> <p>22 obviously we already kind of knew what our role was</p> <p>23 going to be, but where we were going to be and how we</p> <p>24 were going to prepare for it and that kind of thing,</p> <p>25 what other equipment we need.</p>	<p style="text-align: right;">Page 88</p> <p>1 just myself and possibly the supervisors.</p> <p>2 Q. Supervisors being sergeants?</p> <p>3 A. Yes. But I can't be sure about that.</p> <p>4 Q. Did you relay anything from that After</p> <p>5 Action Review to the officers under your command?</p> <p>6 A. Nothing that stands out other than we need</p> <p>7 to make sure -- yeah, I do remember one thing. We</p> <p>8 need to be careful of the wind direction.</p> <p>9 That was a tough one there because they had</p> <p>10 already picked that spot when we got there. So we</p> <p>11 didn't really pick the spot for the staging area and</p> <p>12 where to set up the skirmish line. So it wouldn't be</p> <p>13 really feasible or practical to then move the skirmish</p> <p>14 line all the way around to the other side of where the</p> <p>15 crowd had formed, so we kind of had to deal with what</p> <p>16 we had.</p> <p>17 Q. Um-hum. So based on your understanding as</p> <p>18 a longtime police officer, do you believe that the</p> <p>19 people who were protesting the shooting of Mansur</p> <p>20 Ball-Bey had a First Amendment right to do that?</p> <p>21 A. Absolutely.</p> <p>22 Q. Do you believe that right was respected?</p> <p>23 A. Absolutely.</p> <p>24 Q. I am going to ask you some questions about</p> <p>25 other protests.</p>

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<p>1 Did you work during a protest in March of</p> <p>2 2012 near the Compton Hills Reservoir?</p> <p>3 A. I was not there.</p> <p>4 Q. Did you work a protest near the Quik Trip</p> <p>5 on South Vandeventer in October of 2014 after the</p> <p>6 Michael Brown shooting?</p> <p>7 A. Yes.</p> <p>8 Q. Did you see any chemical munitions</p> <p>9 deployed?</p> <p>10 A. Yes. There was mace deployed at that</p> <p>11 location.</p> <p>12 Q. Was mace deployed against protestors who</p> <p>13 were sitting on the Quik Trip parking lot?</p> <p>14 A. I believe the mace I saw deployed were</p> <p>15 people that were coming towards the officers when we</p> <p>16 were on a skirmish line. That's not to say they</p> <p>17 weren't sitting. There may have been some over-spray.</p> <p>18 I don't know of any -- I don't know if they were</p> <p>19 directly sprayed with mace while they were just laying</p> <p>20 there. They may have gotten over-spray from someone</p> <p>21 else, but the ones -- the deployments I remember were</p> <p>22 people who were coming towards the line in an</p> <p>23 aggressive manner.</p> <p>24 Q. Where was the skirmish line, if you</p> <p>25 remember?</p>	<p>1 only saw it one time.</p> <p>2 Q. Just one officer?</p> <p>3 A. I think so, yeah.</p> <p>4 Q. Do you recall what officer?</p> <p>5 A. No.</p> <p>6 Q. Were you there as a member of SWAT or CDT?</p> <p>7 A. SWAT. SWAT, CDT, again, kind of joined</p> <p>8 together a little bit.</p> <p>9 Q. Yeah. How many police officers were there</p> <p>10 approximately?</p> <p>11 A. 50, 60. This is all guesstimates, by the</p> <p>12 way.</p> <p>13 Q. All the officers who were there were</p> <p>14 members of SWAT and CDT?</p> <p>15 A. Yes. There might have been some</p> <p>16 detectives. They might have pulled some people from</p> <p>17 -- I can't remember if it was an organized group of</p> <p>18 CDT officers or not. I seem to think it was, but I'm</p> <p>19 not for sure.</p> <p>20 Q. You said the mace was deployed against</p> <p>21 people who were coming towards the skirmish line?</p> <p>22 A. I just remember one subject coming towards</p> <p>23 the skirmish line in an aggressive manner and mace was</p> <p>24 deployed at him.</p> <p>25 Q. Do you know who that subject was?</p>
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<p>1 A. It was on the -- of the Quik Trip lot?</p> <p>2 Q. Um-hum.</p> <p>3 A. It would have been on the -- it started on</p> <p>4 the south side of the Quik Trip lot moving north.</p> <p>5 Q. On Vandeventer?</p> <p>6 A. I would say we were towards Chouteau moving</p> <p>7 north towards SLU. And the concern there was that</p> <p>8 they were there to burn down the Quik Trip, I</p> <p>9 remember.</p> <p>10 Q. How many people were there?</p> <p>11 A. Protestors?</p> <p>12 Q. Protestors, yeah.</p> <p>13 A. Oh, 150.</p> <p>14 Q. Do you recall if this was afternoon,</p> <p>15 evening?</p> <p>16 A. It was evening.</p> <p>17 Q. Dark outside?</p> <p>18 A. Yes.</p> <p>19 Q. The mace that you saw deployed, was that</p> <p>20 hand-held mace?</p> <p>21 A. Hand-held.</p> <p>22 Q. Or canisters?</p> <p>23 A. Hand-held.</p> <p>24 Q. How many times did you see mace deployed?</p> <p>25 A. I think I only saw -- personally, I think I</p>	<p>1 A. No.</p> <p>2 Q. Not someone known to you?</p> <p>3 A. No.</p> <p>4 Q. Was it effective?</p> <p>5 A. He got away from the skirmish line, yes.</p> <p>6 Q. Was he arrested, do you know?</p> <p>7 A. I don't think so, no.</p> <p>8 Q. Were there other arrests?</p> <p>9 A. Yes. There were arrests made.</p> <p>10 Q. What were those arrests for?</p> <p>11 A. I didn't -- I wasn't in charge of charging,</p> <p>12 so I'm not quite sure what the actual charge was. I</p> <p>13 can guess for a charge, but that would just be</p> <p>14 strictly my guess.</p> <p>15 Q. Were people arrested on the Quik Trip</p> <p>16 property?</p> <p>17 A. Yes, blocking the front door of the Quik</p> <p>18 Trip property were the ones who were arrested.</p> <p>19 Q. How long did you stay at that scene?</p> <p>20 A. An hour or so.</p> <p>21 Q. Were you there after the arrests had been</p> <p>22 effected?</p> <p>23 A. Yes, because we had eventually gotten</p> <p>24 everyone dispersed off the Quik Trip lot.</p> <p>25 Q. Did you see any other chemical munitions</p>

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<p style="text-align: right;">Page 93</p> <p>1 deployed after the subjects had been arrested on the</p> <p>2 Quik Trip parking lot?</p> <p>3 A. No.</p> <p>4 Q. Did you hear any dispersal orders at that</p> <p>5 location?</p> <p>6 A. Hundreds. That might be an exaggeration,</p> <p>7 but a lot.</p> <p>8 Q. A lot?</p> <p>9 A. Yes.</p> <p>10 Q. Did those dispersal orders that you heard</p> <p>11 include a route that protestors should take?</p> <p>12 A. I don't remember. I believe so, but --</p> <p>13 I'll just say I can't remember.</p> <p>14 Q. Did you hear an order that an assembly had</p> <p>15 been declared unlawful?</p> <p>16 A. At the Quik Trip lot?</p> <p>17 Q. Um-hum.</p> <p>18 A. Yeah, I can't remember. I know there's</p> <p>19 tons of video of it, but I can't remember what it was</p> <p>20 exactly that was said. Before we move a crowd -- I</p> <p>21 can tell you this. Before we move a crowd they are</p> <p>22 given instructions that it's, you know, generally it's</p> <p>23 an unlawful assembly and they are to move and which</p> <p>24 direction. So I believe it would have been done</p> <p>25 several, several times, but I know they were told to</p>	<p style="text-align: right;">Page 95</p> <p>1 sense you'd know it would apply to you since you are</p> <p>2 the one engaged in the activity of blocking the front</p> <p>3 door of the Quik Trip.</p> <p>4 It's impractical to call out each</p> <p>5 individual person by their description. So it seems</p> <p>6 to me it would be common sense.</p> <p>7 Q. So taking that event as an example, if a</p> <p>8 person were present near the Quik Trip parking lot but</p> <p>9 standing on the sidewalk, would that person -- should</p> <p>10 that person know by means of common sense that the</p> <p>11 unlawful assembly declaration applies to them?</p> <p>12 MR. WHEATON: Objection. Form and</p> <p>13 foundation. Calls for speculation.</p> <p>14 A. It just depends on what activity they're</p> <p>15 engaged in. If they're on the sidewalk throwing</p> <p>16 objects at law enforcement, then that would be part of</p> <p>17 an unlawful assembly.</p> <p>18 BY MS. STEFFAN:</p> <p>19 Q. You didn't personally use any chemical</p> <p>20 munitions at that protest; is that right?</p> <p>21 A. No.</p> <p>22 Q. Did you work during, let's say, any protest</p> <p>23 during the fall of 2014 near the intersection of</p> <p>24 Arsenal and Grand in the South Grand neighborhood?</p> <p>25 A. Arsenal and Grand, yes. Are you talking</p>
<p style="text-align: right;">Page 94</p> <p>1 move.</p> <p>2 Q. Do you know based on the times you've heard</p> <p>3 a declaration that there has been an unlawful assembly</p> <p>4 whether that announcement provides the reason that the</p> <p>5 assembly is unlawful? Does that question make sense?</p> <p>6 A. No. I think what they -- I think it's just</p> <p>7 this is an unlawful assembly; leave the area</p> <p>8 immediately; go north, south, east, west, is the gist</p> <p>9 of it. It doesn't say this is an unlawful assembly</p> <p>10 because you did this, this and this. I don't think</p> <p>11 that's necessarily what we do.</p> <p>12 Q. How does the person know if the unlawful</p> <p>13 assembly declaration applies to them?</p> <p>14 MR. WHEATON: Objection. Calls for</p> <p>15 speculation.</p> <p>16 BY MS. STEFFAN:</p> <p>17 Q. You can answer.</p> <p>18 A. Okay. How do I know how they should know?</p> <p>19 Q. Yes.</p> <p>20 A. Okay. I mean, just common sense would tell</p> <p>21 you that when you're blocking, like in that instance</p> <p>22 when you've got 50, 60 people blocking a door to get</p> <p>23 into a private business and the officers are yelling</p> <p>24 over a loud speaker several, several times to leave,</p> <p>25 it's an unlawful assembly, I would think per common</p>	<p style="text-align: right;">Page 96</p> <p>1 about in November?</p> <p>2 Q. To my understanding there were -- (attorney</p> <p>3 did not finish question.)</p> <p>4 A. The night of the Grand Jury decision?</p> <p>5 Q. Yes, that would have been one.</p> <p>6 A. Yes, we were there. Yes, I was there that</p> <p>7 night and in charge of the SWAT Team during that.</p> <p>8 Q. Did you see any chemical munitions</p> <p>9 deployed?</p> <p>10 A. Yes.</p> <p>11 Q. How many times?</p> <p>12 A. Several.</p> <p>13 Q. What type of munitions did you see</p> <p>14 deployed?</p> <p>15 A. I think it was all kinds from the launcher</p> <p>16 and hand-held.</p> <p>17 Q. When you say hand-held you mean the can,</p> <p>18 not the throwing?</p> <p>19 A. I mean the throwing, yeah.</p> <p>20 Q. Okay.</p> <p>21 A. I don't think I even saw any from the can.</p> <p>22 I think it was all either the kind you throw or from</p> <p>23 the launcher.</p> <p>24 Q. Did you use any chemical munitions at that</p> <p>25 protest?</p>

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1 A. No. I can tell you in all the protests and
 2 everything I supervised I didn't deploy one canister
 3 of anything or use any chemical munitions myself at
 4 any time.
 5 **Q. You did though at that protest see other**
 6 **officers do so; right?**
 7 A. Yes.
 8 **Q. Were they members of SWAT?**
 9 A. Yes.
 10 **Q. And you said you saw several deployments?**
 11 A. Oh, yes.
 12 **Q. Does that mean a handful or lots and lots?**
 13 A. I mean, I can't count -- I can't give you a
 14 number, but probably over 10 to 15, less than 30
 15 different kinds of munitions, given the severity of
 16 what was going on down there. It was a lot.
 17 **Q. Did you hear a declaration of an unlawful**
 18 **assembly?**
 19 A. Yes.
 20 **Q. Lots of times?**
 21 A. Yes. With directions given on where to go.
 22 **Q. Did you hear warnings that chemical**
 23 **munitions could be deployed?**
 24 A. Yes.
 25 **Q. Do you recall where people were told to go?**

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1 A. The one time I was there they were told to
 2 go north -- I'm sorry. Correction. West on Arsenal
 3 or they could have gone, I believe, south on Grand,
 4 but west on Arsenal was one of the main options they
 5 were given.
 6 **Q. Do you recall what officers you saw deploy**
 7 **chemical munitions?**
 8 A. Not specifically. I mean, it was a bunch
 9 of them.
 10 **Q. Were you present when tear gas was deployed**
 11 **into MoKaBe's Coffee Shop?**
 12 A. I would argue with you that chemical
 13 munitions were deployed into MoKaBe's Coffee Shop. I
 14 would say that's not necessarily true. So I couldn't
 15 answer that question.
 16 **Q. Do you recognize what I'm talking about?**
 17 A. Yes.
 18 **Q. Where do you think chemical munitions were**
 19 **deployed?**
 20 A. I think they were deployed on Arsenal right
 21 there at the corner.
 22 **Q. Do you think it's fair to say that chemical**
 23 **munitions in the air made their way inside MoKaBe's**
 24 **Coffee Shop?**
 25 A. If they had the door open, yes, or window

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1 open, it's possible, depending upon what the wind was
 2 doing.
 3 **Q. What was the purpose of that deployment of**
 4 **chemical munitions?**
 5 A. Well, I was contacted by Colonel Cherio
 6 (phonetic) for that deployment. And we had officers
 7 that were being encircled by large crowds. We had
 8 stores that were being broken into and looted and we
 9 had numerous gun shots being fired in the area. And
 10 so there was concern. And we had also received some
 11 intel that they were going to try to burn down several
 12 buildings in that location.
 13 So at that point the area had gotten out of
 14 control. And so at that point it was our intent to
 15 clear out the crowd to prevent looting and burning
 16 and, even worse, someone from getting shot and killed,
 17 whether police officer or citizen.
 18 **Q. And were you -- were the chemical munitions**
 19 **effective in reaching that goal?**
 20 A. Yes.
 21 **Q. If a person went inside MoKaBe's Coffee**
 22 **Shop would they have been complying with your**
 23 **instructions?**
 24 A. Um, I believe so, yes. Now the only
 25 problem with that could be is if they all -- if

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1 there's 100 of them in there and they came back out to
 2 the intersection again and started looting and burning
 3 and everything else, that would be problematic. I'm
 4 not saying that was the case, but that is an instance
 5 where that could be a problem.
 6 **Q. My understanding is there was another**
 7 **protest before that one in October of 2014 also near**
 8 **that intersection and including the parking lot behind**
 9 **the Qdoba across the street there. Were you present**
 10 **at that protest?**
 11 A. We didn't go down there. We were staged up
 12 on North Grand, but we never made it down there for
 13 that.
 14 **Q. Where you were staged on North Grand did**
 15 **you see any deployments of chemical munitions?**
 16 A. No. We didn't deploy any chemical
 17 munitions that evening.
 18 **Q. Were you working at a protest on or near**
 19 **the MLK Bridge on Highway 70 that same month?**
 20 A. I think I know -- I had been earlier, but I
 21 don't think it was that month. The one I was on was
 22 for, I think, the union protest, but I think that was
 23 well before that.
 24 **Q. Thinking back to the protest you were**
 25 **present at, did you see the deployment of chemical**

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<p style="text-align: right;">Page 101</p> <p>1 munitions?</p> <p>2 A. No. There were no chemical munitions</p> <p>3 deployed then.</p> <p>4 Q. Did you work at a protest on December 1st</p> <p>5 of 2014, so about a week after the Arsenal and Grand</p> <p>6 protest, this one at Kiener Plaza?</p> <p>7 A. No, I was not there for that.</p> <p>8 Q. How about one later that month, I believe</p> <p>9 on New Year's Eve of 2014, near police headquarters on</p> <p>10 Tucker?</p> <p>11 A. No. We were not there. I was not there</p> <p>12 for that one.</p> <p>13 Are you talking about the one where they</p> <p>14 rushed the headquarters, where they ran into the</p> <p>15 headquarters?</p> <p>16 Q. I think it was, yeah, near police</p> <p>17 headquarters?</p> <p>18 A. No, I was not there for that one.</p> <p>19 Q. Were you present for a protest in May of</p> <p>20 2015 near Jennifer Joyce's house on Fillmore Street in</p> <p>21 Holly Hills?</p> <p>22 A. No.</p> <p>23 Q. You testified earlier that you did not have</p> <p>24 a Documentation Team for the event on August 19th,</p> <p>25 2015; right?</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Oh, yes. I mean mace.</p> <p>2 Q. Other than mace?</p> <p>3 A. No. In training, I should say. I take</p> <p>4 that back. In training.</p> <p>5 Q. Fair to say you've never deployed tear gas</p> <p>6 in the course of your police work other than in</p> <p>7 training; is that correct?</p> <p>8 A. Correct. I'm trying to think if I ever did</p> <p>9 it on any barricaded subject or hostage situation. I</p> <p>10 don't think I ever did, but certainly never in any</p> <p>11 civil disobedience or rioting situation.</p> <p>12 Q. You have directed other officers to do so?</p> <p>13 A. Yes.</p> <p>14 Q. In civil disobedience or rioting</p> <p>15 situations?</p> <p>16 A. Yes.</p> <p>17 Q. Other than the occasions that we've already</p> <p>18 talked about, so the Arsenal and Grand and the</p> <p>19 August 19th, 2015, occasion, have you directed</p> <p>20 officers to deploy chemical munitions at a protest or</p> <p>21 civil disobedience event?</p> <p>22 A. Yes.</p> <p>23 Q. When have you done that?</p> <p>24 A. Ferguson, during the initial Ferguson,</p> <p>25 which would have been August of 2014.</p>
<p style="text-align: right;">Page 102</p> <p>1 A. Correct.</p> <p>2 Q. There was a Documentation Team for the</p> <p>3 Arsenal and Grand protests in November of 2014; is</p> <p>4 that right?</p> <p>5 A. From the SWAT Team?</p> <p>6 Q. At all?</p> <p>7 A. There could have been with the Civil</p> <p>8 Disobedience Team. I'm unaware. But there was no</p> <p>9 specific documenter with the SWAT Team.</p> <p>10 Q. Okay. Were you Civil Disobedience Team</p> <p>11 commander during the Arsenal and Grand protests?</p> <p>12 A. Not really. I think at that point they had</p> <p>13 kind of -- after Ferguson they had kind of more or</p> <p>14 less started up one which was more oversight by Randy</p> <p>15 Jemerson and, I believe, Brian Rossomanno. So they</p> <p>16 were more or less -- we'd assist them. We'd assist</p> <p>17 them on training, but he more or less, those two more</p> <p>18 or less ran the Civil Disobedience Team from then on</p> <p>19 after Ferguson.</p> <p>20 Q. You testified earlier that you have never</p> <p>21 deployed a chemical munition personally at a protest;</p> <p>22 is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Have you done so in the course of your</p> <p>25 police work unrelated to protests?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Other than those three?</p> <p>2 A. I think that's it. Yeah, those three.</p> <p>3 Those are the ones that come to mind.</p> <p>4 Q. I understand that you left the employ of</p> <p>5 the St. Louis Metropolitan Police Department in</p> <p>6 February of 2017; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And in your capacity as chief of the Sunset</p> <p>9 Hills Police Department you haven't policed any</p> <p>10 protests in the City of St. Louis; is that right,</p> <p>11 since that date?</p> <p>12 A. As the chief of Sunset Hills, no.</p> <p>13 Q. How about officers under your command, have</p> <p>14 they done so?</p> <p>15 A. In the City of St. Louis, no.</p> <p>16 Q. Much earlier you testified about the</p> <p>17 content of CDT training and the fact that it talked</p> <p>18 about when it was appropriate and not appropriate to</p> <p>19 use chemical munitions on duty; is that right?</p> <p>20 A. Sure, yes.</p> <p>21 Q. So based on that training and your</p> <p>22 experience as a police officer with the St. Louis</p> <p>23 Metropolitan Police Department, when is it appropriate</p> <p>24 to use chemical munitions?</p> <p>25 MR. WHEATON: Objection to form. Calls for</p>

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<p style="text-align: right;">Page 105</p> <p>1 speculation. Subject to that, if you understand you</p> <p>2 can answer.</p> <p>3 A. That's pretty broad. I mean, that's -- um,</p> <p>4 but generally speaking, in a situation where I would</p> <p>5 say the ability to make individual arrests, you know,</p> <p>6 the crowd is so big and uncontrollable to where the</p> <p>7 situation is such that an individual arrest becomes</p> <p>8 impractical or very dangerous, for both the officer</p> <p>9 and the -- and the suspect, for lack of a better term.</p> <p>10 Because a lot of times if you go in there</p> <p>11 to make a physical arrest it turns into a physical</p> <p>12 confrontation. And then it's not just chemical</p> <p>13 munitions. It could be a nightstick, it can be having</p> <p>14 to take someone to the ground. And that's when the</p> <p>15 protestor, rioter, suspect, could be hurt and also the</p> <p>16 officer could be hurt.</p> <p>17 So when that's a possibility, I would say</p> <p>18 that's when you would prefer to use chemical munitions</p> <p>19 because it really is designed to prevent injury, to</p> <p>20 prevent those hand to hand physical confrontations.</p> <p>21 BY MS. STEFFAN:</p> <p>22 Q. Is there anything different about the</p> <p>23 circumstances in which it is appropriate to use</p> <p>24 hand-held mace or is that generally the same as what</p> <p>25 you've just described?</p>	<p style="text-align: right;">Page 107</p> <p>1 getting injured, is by being closer to the crowd.</p> <p>2 That's where they can grab you, hit you, you know,</p> <p>3 have a shorter distance to hit you with an item rather</p> <p>4 than with the other chemical munitions it gives you --</p> <p>5 it allows you to get a little bit of distance.</p> <p>6 Q. Have you heard the term streamer before as</p> <p>7 it relates to mace?</p> <p>8 A. No.</p> <p>9 Q. I understand that you don't work at the St.</p> <p>10 Louis Police Department anymore, but based on your</p> <p>11 knowledge of the policies and guidelines that were in</p> <p>12 place while you were there, do you know if officers</p> <p>13 were required to make a report every time they use a</p> <p>14 chemical munition?</p> <p>15 A. I believe so, yes.</p> <p>16 Q. The officers whom you directed to use</p> <p>17 chemical munitions, do you know if they wrote reports?</p> <p>18 A. They reported their information to Officer</p> <p>19 Manasco who contained it in the After Action Report.</p> <p>20 Q. That complies with that guideline?</p> <p>21 A. I believe so. And I believe, I'm not sure,</p> <p>22 but I thought some of the information was contained in</p> <p>23 the total report done by whoever completed the whole</p> <p>24 report for the whole incident.</p> <p>25 Q. Did you review that whole report for the</p>
<p style="text-align: right;">Page 106</p> <p>1 MR. WHEATON: I'm sorry. Can you read that</p> <p>2 back?</p> <p>3 (Question read back by reporter.)</p> <p>4 MR. WHEATON: Same objections as before.</p> <p>5 A. It depends upon, I mean, which kind of</p> <p>6 hand-held mace because there's the foggers, which</p> <p>7 those are almost like a larger fire extinguisher type</p> <p>8 thing that disperses a wide pattern. Those would be</p> <p>9 more of a crowd situation there too where it's</p> <p>10 dangerous to go in there, as opposed to the</p> <p>11 hand-helds, which each officer carries, which just</p> <p>12 shoots more of a direct stream. That could be used in</p> <p>13 more of a hand to hand situation as opposed -- or to</p> <p>14 avoid a hand to hand situation against a specific</p> <p>15 individual rather than a large crowd who might be</p> <p>16 throwing rocks and bottles and stuff at you.</p> <p>17 BY MS. STEFFAN:</p> <p>18 Q. So if I understand correctly, you are</p> <p>19 saying a fogger would be appropriate to use in</p> <p>20 circumstances similar to the other chemical munitions</p> <p>21 you've described earlier whereas a hand-held mace can</p> <p>22 might be slightly different?</p> <p>23 A. Yes. You know, the only disadvantage</p> <p>24 though with a fogger though is you have to get really</p> <p>25 close. And that's where you could subject yourself to</p>	<p style="text-align: right;">Page 108</p> <p>1 whole incident?</p> <p>2 A. I never did. It was never distributed to</p> <p>3 me for review.</p> <p>4 Q. If I understand correctly, an incident</p> <p>5 report like that does have a formal sign-off process?</p> <p>6 A. Yes.</p> <p>7 Q. But you as a SWAT Team member would not be</p> <p>8 a part of that formal sign-off process?</p> <p>9 A. No. It would be whoever is in the</p> <p>10 officer's chain of command, I'm assuming, whoever they</p> <p>11 designated to do that.</p> <p>12 Q. Are you familiar with a city ordinance, St.</p> <p>13 Louis City ordinance about traffic obstruction?</p> <p>14 A. Impeding the flow of traffic?</p> <p>15 Q. Yes.</p> <p>16 A. I believe that's the ordinance for it.</p> <p>17 Q. You are familiar with that ordinance?</p> <p>18 A. I mean, I don't think I've ever -- I don't</p> <p>19 know if I've ever written a ticket for it or not, but</p> <p>20 basically it just -- it is what it says on its face,</p> <p>21 impeding the flow of traffic by stopping traffic.</p> <p>22 Q. And you just said you don't know if you've</p> <p>23 ever written a ticket for that?</p> <p>24 A. Yeah, I don't know.</p> <p>25 Q. Do you know if you have enforced it in</p>

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<p style="text-align: right;">Page 109</p> <p>1 other ways?</p> <p>2 A. Um, I believe when we first -- the first</p> <p>3 time -- actually, during this incident a couple of</p> <p>4 subjects were initially, I think, taken into custody</p> <p>5 for that, impeding the flow of traffic. The first</p> <p>6 time we walked down with the skirmish line, I believe</p> <p>7 a couple of subjects were taken into custody for</p> <p>8 impeding the flow.</p> <p>9 Q. When you say "this incident", you're</p> <p>10 talking about the August 2015 incident?</p> <p>11 A. Correct. Correct.</p> <p>12 Q. So based on your familiarity with that</p> <p>13 ordinance, what is your understanding of when a person</p> <p>14 is actually impeding the flow of traffic?</p> <p>15 A. When they're standing in a traffic lane,</p> <p>16 which would prevent vehicles from passing through that</p> <p>17 traffic lane.</p> <p>18 Q. Do you know if that ordinance applies on</p> <p>19 sidewalks?</p> <p>20 A. I would not think it applies on sidewalks,</p> <p>21 no, just in the traffic lane, the lane of travel.</p> <p>22 Q. How about if a person is standing adjacent</p> <p>23 to a curb but in the street, would that ordinance</p> <p>24 apply?</p> <p>25 A. It could, depending upon where they were.</p>	<p style="text-align: right;">Page 111</p> <p>1 technically an arrest. It's very dangerous.</p> <p>2 BY MS. STEFFAN:</p> <p>3 Q. If a person is ordered to disperse, and</p> <p>4 relying on your experience as a police officer, how</p> <p>5 far does the person need to go before they have</p> <p>6 complied with that dispersal order?</p> <p>7 A. Out of the street to allow the free flow of</p> <p>8 traffic.</p> <p>9 Q. So if a person is ordered to disperse</p> <p>10 because they are standing in a street and they move to</p> <p>11 the sidewalk, have they dispersed at that point?</p> <p>12 MR. WHEATON: Objection. Form and</p> <p>13 foundation. Calls for speculation absent specific</p> <p>14 circumstances. Subject to that, go ahead.</p> <p>15 A. Now are you talking about dispersal in</p> <p>16 terms of it's an unlawful assembly?</p> <p>17 BY MS. STEFFAN:</p> <p>18 Q. I'm just trying to understand if a civilian</p> <p>19 is given an order to disperse and they are trying to</p> <p>20 comply with that order, how far do they need to go in</p> <p>21 order to do so?</p> <p>22 MR. WHEATON: Same objection.</p> <p>23 A. Well, a dispersal order generally is given</p> <p>24 because it's unlawful assembly. At that point they</p> <p>25 need to leave the area altogether. Now in terms of</p>
<p style="text-align: right;">Page 110</p> <p>1 I mean, you know, if it's -- I don't know what the</p> <p>2 actual feet is off, but I mean if there's a sidewalk</p> <p>3 and you're in the street I would think, yeah, you</p> <p>4 technically could be impeding the flow of traffic.</p> <p>5 Q. How about if a person is standing in a</p> <p>6 street that has been closed or blocked by police?</p> <p>7 Could the person be violating the impeding flow of</p> <p>8 traffic ordinance under that circumstance?</p> <p>9 A. Yes. If they caused the police to have to</p> <p>10 block the traffic for their safety, absolutely.</p> <p>11 Q. How about if another civilian caused the</p> <p>12 police to block off the street?</p> <p>13 A. And then you got in the street too? Yeah.</p> <p>14 I think you would be impeding the flow of traffic.</p> <p>15 Q. Thinking about the St. Louis laws that were</p> <p>16 in place while you were a member of the St. Louis</p> <p>17 Metropolitan Police Department, do you believe that</p> <p>18 impeding the flow of traffic is justification for a</p> <p>19 dispersal order?</p> <p>20 MR. WHEATON: Objection. Form. Foundation.</p> <p>21 Calls for speculation. Subject to that, go ahead.</p> <p>22 A. I think it's justification for an arrest</p> <p>23 after a warning. So a dispersal order could be</p> <p>24 considered a warning, but it's absolutely</p> <p>25 justification for an arrest or a ticket, which is</p>	<p style="text-align: right;">Page 112</p> <p>1 how far that is, that is as far as it takes to where</p> <p>2 there's no longer a group assembled that was engaged</p> <p>3 in the unlawful activity. So it's not enough for the</p> <p>4 group to move two blocks away if you still have the</p> <p>5 same group blocking the traffic, throwing objects at</p> <p>6 officers or looting.</p> <p>7 BY MS. STEFFAN:</p> <p>8 Q. If people remain assembled but they go</p> <p>9 inside a building, is that complying with a dispersal</p> <p>10 order?</p> <p>11 MR. WHEATON: Objection. Form and</p> <p>12 foundation. Calls for speculation.</p> <p>13 A. It depends upon if they're invited in the</p> <p>14 building or if it was a building they just looted.</p> <p>15 BY MS. STEFFAN:</p> <p>16 Q. At the St. Louis Metropolitan Police</p> <p>17 Department did you receive training on unlawful</p> <p>18 assembly?</p> <p>19 A. Specific training as to that specific</p> <p>20 topic, no, other than what we've talked about in civil</p> <p>21 disobedience, which is focused around unlawful</p> <p>22 assemblies. But in terms of the specific laws, we</p> <p>23 never received any specific training as to the law</p> <p>24 itself.</p> <p>25 Q. Did the civil disobedience training include</p>

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<p style="text-align: right;">Page 113</p> <p>1 what makes an unlawful assembly or is it just how to 2 respond once there is one? 3 MR. WHEATON: Objection. Form. 4 A. It does talk -- I mean, I guess it's mostly 5 about how to respond to the unlawful assembly, which 6 is generally determined by a commander. 7 BY MS. STEFFAN: 8 Q. The response is generally -- (attorney did 9 not finish question.) 10 A. Well, when you declare it an unlawful 11 assembly, you know, it that situation where there's a 12 large group, it's going to be determined by a 13 commander. And obviously he's got to follow the 14 applicable law which is for the state and for the 15 local. 16 Q. I may have already asked you this, but have 17 you ever decided an assembly was unlawful? 18 A. Myself, no. 19 Q. Do you know if any officers under your 20 command have done so? 21 A. No, they haven't. It usually comes from 22 higher above. 23 Q. Does it have to come from higher above? 24 A. Depending upon the situation. I mean, you 25 know, with the protests, you know, those were pretty</p>	<p style="text-align: right;">Page 115</p> <p>1 written out in the city code that you can look up, but 2 it's been a long time. It's been over three and a 3 half years since I've had to worry about it. And 4 hopefully I never have to again. 5 Q. Do you know if there are guidelines about 6 how close the people need to be to one another to be 7 an assembly? 8 A. No. 9 Q. Did you send any emails related to the 10 August 19, 2015, protest? 11 A. I can't remember. Like I said, it's been a 12 long time. 13 Q. Have you ever sent emails related to 14 protests? 15 A. I'm sure I have at some point in time, but 16 not many. 17 Q. For example, when Officer Manasco wanted to 18 share this After Action Report with you, how would he 19 have done that? Did he do that by email? 20 A. I think initially he just presented me a 21 copy of it. He may have emailed me a copy later, but 22 I remember initially I think he just presented me with 23 a copy. 24 Q. You did have a department issued email 25 address when you were with St. Louis Metropolitan</p>
<p style="text-align: right;">Page 114</p> <p>1 serious situations because you do obviously have that 2 First Amendment element to it. So you want to make 3 sure that you are allowing people to express their 4 First Amendment right, but at the same time doing it 5 lawfully. So any time -- I would say any time that 6 there's that large of a gathering, it's going to come 7 up from pretty high when you determine it's unlawful 8 assembly. 9 Q. Based on your long career with the St. 10 Louis Metropolitan Police Department, if a person 11 wants to express themselves by participating in a 12 protest, but do so lawfully, how do they do that? 13 MR. WHEATON: Objection. Form. Calls for 14 speculation. Subject to that, if you understand you 15 can answer. 16 A. Um, I mean, they just don't break the law. 17 Don't throw things, don't get in the street, that kind 18 of thing. 19 BY MS. STEFFAN: 20 Q. Do you have any understanding of whether 21 there's a minimum number of people to be an assembly? 22 A. Yes. 23 Q. What is your understanding? 24 A. I think it's nine, but I could be wrong. 25 It's like six to nine or something like that. It's</p>	<p style="text-align: right;">Page 116</p> <p>1 Police Department? 2 A. Yes. Yes. 3 Q. And did you use it in the course of your 4 work? 5 A. Yes. 6 Q. Have you ever sent emails about chemical 7 agents? 8 A. Um, I think at one point when we were 9 ordering some during Ferguson. 10 Q. Other than that time do you recall ever 11 sending emails about chemical munitions? 12 A. I do not. 13 Q. Did you patrol the women's march in January 14 of 2017 downtown? 15 A. Yes. 16 Q. As a member of SWAT? 17 A. No. I was in the Fourth District at the 18 time. I don't know if I was assigned to it or I was 19 just there because I was the District Four watch 20 commander, but I was down there. 21 Q. How long were you there? 22 A. A few hours. If I remember, it was really, 23 really hot. Or maybe not, no. I was there about 24 three or four hours because I remember it was right 25 before I left to go to Sunset Hills.</p>

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<p style="text-align: right;">Page 117</p> <p>1 Q. Yeah, I think this would have been about a 2 month before you left SLMPD? 3 A. Yes. Maybe even shortly before that 4 because they knew I was leaving. 5 Q. You were there as a Fourth District 6 lieutenant? 7 A. Yeah. I don't think I was assigned to the 8 detail. 9 Q. What was your duty or your role while you 10 were there? 11 A. I was just commander, watch commander of 12 the Fourth District as a general role. I don't think 13 I had any -- I can't remember if I was assigned that 14 detail or not, to be honest with you. 15 Q. Did you see protestors? 16 A. Yes. 17 Q. Do you recall how many approximately? 18 A. I'm trying to remember if that was an 19 organized march. So I don't know if it was really -- 20 was that an organized? I can't remember if it was an 21 organized march with a permit or not, to be honest 22 with you. So it wouldn't even necessarily be 23 considered protestors. They would have been 24 considered part of the march. Because I thought we 25 had the streets blocked off for everyone. It was a</p>	<p style="text-align: right;">Page 119</p> <p>1 munitions? 2 A. No. 3 Q. Did you see any officers effect any 4 arrests? 5 A. No. Not to say they didn't. I just didn't 6 see any. 7 Q. Thinking back to your experience on 8 August 19, 2015, and looking at the After Action 9 Report, is there anything that you would do 10 differently today if these same events occurred other 11 than potentially change the staging location based on 12 the wind direction? 13 A. Yeah. I would have corrected the After 14 Action Report. That's on me. 15 Q. Other than that? 16 A. Maybe change the staging location more 17 towards -- but that would have been tough to do. 18 Beyond that, I think, you know, I can look 19 at that incident and say no one was seriously injured 20 in any of the actual -- in any of those three protests 21 I handled. No citizens or police officers were 22 seriously injured or even killed, which is not 23 uncommon at riots, if you look at L.A. and places like 24 that. So I take a lot of pride in that, that no 25 protestors or rioters or policemen or civilians or</p>
<p style="text-align: right;">Page 118</p> <p>1 women's march. So I don't think. But there were a 2 few hundred, I think. Several hundred. 3 Q. You're saying you believe the police had 4 the streets blocked off? 5 A. Yes, because I think they had permits and 6 stuff, I thought. 7 But I think there was another group 8 actually at the same time, if this is the same thing 9 I'm thinking of, where they actually had a protest 10 group there as well. Maybe I'm confusing something. 11 Q. I'm understanding from what you're saying 12 that you are distinguishing a protest and a march; is 13 that right? 14 A. Yes. 15 Q. How are those terms different to you? 16 A. Well, I guess when I think of a protest, I 17 guess I do -- I mean, this is more of just an 18 organized march kind of thing rather than a 19 spontaneous protest kind of thing. 20 Q. Did you deploy any chemical munitions at 21 the women's march? 22 A. No. 23 Q. Did you effectuate any arrests? 24 A. No. 25 Q. Did you see any officers deploy chemical</p>	<p style="text-align: right;">Page 120</p> <p>1 anybody expressing their First Amendment rights were 2 injured, seriously injured or killed. I take a lot of 3 pride in that. 4 Q. So you would not -- other than the staging 5 location and correcting the After Action Report, would 6 you do anything differently if it happened today? 7 A. Um, you know, the only thing I think we 8 might have done, we could have done maybe, is effected 9 more arrests at the beginning. But at the same time, 10 given the political climate and everything, I 11 understand they wanted to be as, you know, give them 12 as much room -- give the protestors as much room as 13 possible to effect -- you know, to carry out their 14 First Amendment rights. 15 So I know that they didn't want to make 16 arrests because they were hoping after they were done 17 protesting they would leave peacefully. You know, 18 that is what they were hoping. But I think had we 19 effected more arrests then that could have prevented 20 us from later having to deploy chemical munitions and 21 it could have prevented burning buildings and the 22 looting and the car catching on fire, you know, so. 23 Q. Other than that possibility, are there 24 other things that you would have done differently if 25 these events happened today?</p>

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<p>1 A. No.</p> <p>2 MS. STEFFAN: I think I'm finished. If you</p> <p>3 have questions, please feel free to go ahead.</p> <p>4 MR. WHEATON: I don't.</p> <p>5 MS. STEFFAN: Can I have a minute then to</p> <p>6 look through my notes?</p> <p>7 MR. WHEATON: Sure.</p> <p>8 MS. STEFFAN: We can go off the record.</p> <p>9 (A short break was then taken.)</p> <p>10 MS. STEFFAN: No further questions.</p> <p>11 MR. WHEATON: Okay. I'm going to explain</p> <p>12 signature.</p> <p>13 MS. STEFFAN: Sure.</p> <p>14 MR. WHEATON: You probably know this, but</p> <p>15 you have the right to read through the transcript and</p> <p>16 sign off on it to check it for typographical errors or</p> <p>17 any other words that may have been taken down</p> <p>18 incorrectly. You can't change the substance of your</p> <p>19 testimony. Or you can trust that the court reporter</p> <p>20 took it down accurately. In that case, you can waive</p> <p>21 signature. And that's your choice. Typically I</p> <p>22 recommend that people waive signature. But either</p> <p>23 tell the court reporter you'll waive or sign. It's up</p> <p>24 to you.</p> <p>25 THE WITNESS: I will waive my signature.</p>	<p>1</p> <p>2 NOTARIAL CERTIFICATE OF REPORTER</p> <p>3</p> <p>4 I, Susannah L. Massie, MO CCR, and Notary</p> <p>5 Public within and for the State of Missouri, do hereby</p> <p>6 certify that the witness whose testimony appears in</p> <p>7 the foregoing deposition was duly sworn by me pursuant</p> <p>8 to Section 492.010 RSMo; that the testimony of said</p> <p>9 witness was taken by me to the best of my ability and</p> <p>10 thereafter reduced to typewriting under my direction;</p> <p>11 that I am neither counsel for, related to, nor</p> <p>12 employed by any of the parties to the action in which</p> <p>13 this deposition was taken, and further that I am not a</p> <p>14 relative or employee of any attorney or counsel</p> <p>15 employed by the parties thereto, nor financially or</p> <p>16 otherwise interested in the outcome of the action.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 Notary Public within and for</p> <p>22 The State of Missouri</p> <p>23 MO CCR #902</p> <p>24</p> <p>25</p>
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